

1.1 moves to amend H.F. No. 90 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 **"ARTICLE 1**
 1.4 **ASSISTED LIVING AND HOME CARE RIGHTS AND CONSUMER**
 1.5 **PROTECTIONS**

1.6 Section 1. **[144J.01] DEFINITIONS.**

1.7 Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have
 1.8 the meanings given them.

1.9 Subd. 2. **Adult.** "Adult" means a person who is at least 18 years of age.

1.10 Subd. 3. **Agent.** "Agent" means an employee of, or person or entity contracting or
 1.11 affiliated with, the assisted living establishment.

1.12 Subd. 4. **Affiliated home care provider.** "Affiliated home care provider" means a home
 1.13 care provider licensed under chapter 144A that provides home care services to residents of
 1.14 an assisted living establishment under a business relationship or other affiliation with the
 1.15 establishment.

1.16 Subd. 5. **Assisted living contract.** "Assisted living contract" means the legal agreement
 1.17 between an assisted living establishment and a resident for the provision of:

1.18 (1) housing;

1.19 (2) home care services, whether directly or through an affiliated home care provider;

1.20 and

1.21 (3) any other services.

1.22 Subd. 6. **Assisted living establishment.** (a) "Assisted living establishment" means an
 1.23 entity that is governed under chapter 144G or, after July 1, 2020, is licensed by the

2.1 commissioner of health to provide housing and offer or provide home care services directly
2.2 or through an affiliated home care provider. For the purposes of this chapter, unless otherwise
2.3 provided, an assisted living establishment also includes a housing with services establishment
2.4 registered under chapter 144D.

2.5 (b) Assisted living establishment does not include:

2.6 (1) shelters, transitional housing, or any other residential units serving exclusively or
2.7 primarily homeless individuals, as defined in section 116L.361;

2.8 (2) a nursing home licensed under chapter 144A;

2.9 (3) a hospital, as defined in section 144.50, subdivision 2;

2.10 (4) a boarding care home, as defined in Minnesota Rules, part 4655.0100, subpart 3;

2.11 (5) a supervised living facility, as defined in Minnesota Rules, part 4665.0100, subpart
2.12 10;

2.13 (6) a board and lodging establishment licensed under chapter 157 or 245G or governed
2.14 under Minnesota Rules, parts 9520.0500 to 9520.0670;

2.15 (7) any establishment that serves as a shelter for battered women or other similar purpose;

2.16 (8) adult foster care licensed by the Department of Human Services;

2.17 (9) private homes in which the residents are related to the providers of services by
2.18 kinship, law, or affinity;

2.19 (10) residential settings for persons with developmental disabilities in which the services
2.20 are licensed under chapter 245D;

2.21 (11) a home-sharing arrangement, including but not limited to arrangements where an
2.22 older person, person with a disability, or single-parent family makes lodging in a private
2.23 residence available to another person in exchange for services or rent, or both;

2.24 (12) a condominium, cooperative, common interest community, or owners' association
2.25 organized under chapter 515B where at least 80 percent of the units that comprise the
2.26 condominium, cooperative, common interest community, or association are occupied by
2.27 individuals who are the owners, members, or shareholders of the units;

2.28 (13) services for persons with developmental disabilities that are provided under a license
2.29 under chapter 245D; or

2.30 (14) a temporary family health care dwelling as defined in section 394.307, subdivision
2.31 1.

3.1 Subd. 7. **Client.** "Client" means a person to whom an unaffiliated home care provider
3.2 provides home care services under a home care contract.

3.3 Subd. 8. **Commissioner.** "Commissioner" means the commissioner of health.

3.4 Subd. 9. **Designated representative.** "Designated representative" means:

3.5 (1) a court-appointed guardian;

3.6 (2) a conservator;

3.7 (3) an attorney-in-fact;

3.8 (4) a health care agent, as defined in section 145C.01, subdivision 2; or

3.9 (5) a person designated in writing by the resident and identified in the resident's records
3.10 on file with the assisted living establishment.

3.11 Subd. 10. **Home care provider.** "Home care provider" means an affiliated or unaffiliated
3.12 home care provider.

3.13 Subd. 11. **Home care service agreement or service agreement.** "Home care service
3.14 agreement" or "service agreement" means the written plan described in section 144A.43,
3.15 subdivision 27, between the home care client or the client's designated representative and
3.16 an unaffiliated home care provider describing the home care services that will be provided
3.17 to the client.

3.18 Subd. 12. **Home care services.** "Home care services" means:

3.19 (1) the basic home care services described in section 144A.471, subdivision 6, clauses
3.20 (1) to (5);

3.21 (2) the comprehensive home care services described in section 144A.471, subdivision
3.22 7;

3.23 (3) monitoring or supervising the resident's functioning and needs to ensure the resident's
3.24 well-being;

3.25 (4) assistance with laundry, shopping, and household chores;

3.26 (5) housekeeping services;

3.27 (6) providing assistance with meals or food preparation;

3.28 (7) help with arranging for or providing transportation to medical, social, recreational,
3.29 personal, or social service appointments; or

3.30 (8) social or recreational services.

4.1 Subd. 13. **Housing with services establishment.** "Housing with services establishment"
4.2 has the meaning given in section 144D.01, subdivision 4.

4.3 Subd. 14. **Resident.** "Resident" means a person living in an assisted living establishment.

4.4 Subd. 15. **Unaffiliated home care provider.** "Unaffiliated home care provider" means
4.5 a home care provider regularly engaged for a fee in the delivery of one or more home care
4.6 services directly to a client in any setting, including to a resident of an assisted living
4.7 establishment, provided the home care provider has no business relationship or affiliation
4.8 with the assisted living establishment where the client contracting for or receiving home
4.9 care services resides.

4.10 **EFFECTIVE DATE.** This section is effective August 1, 2019.

4.11 Sec. 2. **[144J.02] ASSISTED LIVING CONTRACTS.**

4.12 Subdivision 1. **Contract required.** (a) No assisted living establishment may offer or
4.13 provide housing, home care services, or other services to a resident unless it has executed
4.14 a written contract with the resident.

4.15 (b) The contract must:

4.16 (1) be signed by both:

4.17 (i) the resident or the resident's designated representative; and

4.18 (ii) the owner or owners, or an agent of the owner or owners, of the assisted living
4.19 establishment;

4.20 (2) contain all the terms concerning the provision of:

4.21 (i) housing; and

4.22 (ii) services, including all home care services, whether provided directly by the assisted
4.23 living establishment or by an affiliated home care provider.

4.24 (c) An assisted living establishment must:

4.25 (1) offer to prospective residents and provide to the Office of the Ombudsman for
4.26 Long-Term Care a complete unsigned copy of its assisted living contract; and

4.27 (2) give a complete copy of any signed contract and any addendums, and all supporting
4.28 documents and attachments, to the resident or the resident's designated representative
4.29 promptly after a contract and any addendum has been signed by the resident or the resident's
4.30 designated representative.

5.1 (d) A contract under this section is a consumer contract under sections 325G.29 to
5.2 325G.37.

5.3 (e) Before or at the time of execution of an assisted living contract, the assisted living
5.4 establishment must offer the resident the opportunity to identify a designated representative
5.5 in writing in the contract. The contract must contain a page or space for the name and contact
5.6 information of the designated representative and a box the resident must initial if the resident
5.7 declines to name a designated representative. Notwithstanding paragraph (f), the resident
5.8 has the right at any time to rescind the declination or add or change the name and contact
5.9 information of the designated representative.

5.10 (f) The resident must agree in writing to any additions or amendments to the contract.
5.11 Upon agreement between the resident or resident's designated representative and the assisted
5.12 living establishment, a new contract or an addendum to the existing contract must be executed
5.13 and signed.

5.14 Subd. 2. **Contents of contract; contact information.** (a) An assisted living contract
5.15 must include in a conspicuous place and manner on the contract, the legal name, the license
5.16 or registration number of the assisted living establishment, and the license number of any
5.17 affiliated home care provider.

5.18 (b) An assisted living contract must include the name, telephone number, and physical
5.19 mailing address, which may not be a public or private post office box, of:

5.20 (1) the assisted living establishment and any affiliated home care provider;

5.21 (2) the owner or owners of the assisted living establishment and of any affiliated home
5.22 care provider;

5.23 (3) the managing agent of the assisted living establishment; and

5.24 (4) at least one natural person who is authorized to accept service of process on behalf
5.25 of the assisted living establishment and each affiliated home care provider.

5.26 Subd. 3. **Duration of contract.** An assisted living contract must include:

5.27 (1) a description of all the terms and conditions of the contract, including a description
5.28 of and any limitations to the housing and home care services to be provided for the contracted
5.29 amount;

5.30 (2) a delineation of the cost and nature of any other services to be provided for an
5.31 additional fee;

6.1 (3) a delineation and description of any additional fees the resident may be required to
6.2 pay if the resident's condition changes during the term of the contract;

6.3 (4) a delineation of the grounds under which the resident may be discharged, evicted,
6.4 or transferred or have services terminated; and

6.5 (5) billing and payment procedures and requirements.

6.6 Subd. 4. **Complaint procedures.** An assisted living contract must include a description
6.7 of the assisted living establishment's complaint resolution process available to residents,
6.8 including the name and contact information of the person representing the assisted living
6.9 establishment who is designated to handle and resolve complaints.

6.10 Subd. 5. **Notice required.** An assisted living contract must include a clear and
6.11 conspicuous notice of:

6.12 (1) the right under section 144J.13 to challenge a discharge, eviction, or transfer or
6.13 service termination;

6.14 (2) the assisted living establishment's policy regarding transfer of residents within the
6.15 establishment, under what circumstances transfer may occur, and whether or not consent
6.16 of the resident being asked to transfer is required;

6.17 (3) the toll-free complaint line for the long-term care ombudsman and the Office of
6.18 Health Facility Complaints;

6.19 (4) the resident's right to obtain services from an unaffiliated home care provider;

6.20 (5) the availability of public funds for eligible residents to pay for housing or services,
6.21 or both; and

6.22 (6) the contact information to obtain long-term care consulting services under section
6.23 256B.0911.

6.24 Subd. 6. **Contracts in permanent files.** Assisted living contracts and related documents
6.25 executed by each resident or the resident's designated representative must be maintained
6.26 by the assisted living establishment in files from the date of execution of the assisted living
6.27 contract until three years after the contract is terminated or expires. Assisted living contracts
6.28 and any applicable written disclosures required under section 325F.72 shall be made available
6.29 for on-site inspection by the commissioner upon request at any time.

6.30 Subd. 7. **Waivers of liability prohibited.** An assisted living contract must not include
6.31 a waiver of assisted living establishment liability for the health and safety or personal
6.32 property of a resident. An assisted living contract must not include any provision that the

7.1 assisted living establishment knows or should know to be deceptive, unlawful, or
7.2 unenforceable under state or federal law, nor include any provision that requires or implies
7.3 a lesser standard of care or responsibility than is required by law.

7.4 **EFFECTIVE DATE.** This section is effective for all assisted living contracts entered
7.5 into on or after January 1, 2020. Prior to January 1, 2020, assisted living establishments are
7.6 governed by the contract requirements in sections 144D.04 and 144D.045.

7.7 **Sec. 3. [144J.03] HOUSING AND SERVICE-RELATED MATTERS.**

7.8 Subdivision 1. **Responsibility for housing and services.** The assisted living
7.9 establishment is directly responsible to the resident for all housing and service-related
7.10 matters provided directly or through an affiliated home care provider. Housing and
7.11 service-related matters include but are not limited to the handling of complaints, the provision
7.12 of notices, and the initiation of any adverse action against the resident involving housing
7.13 or services provided by the assisted living establishment or any agent, including an affiliated
7.14 home care provider.

7.15 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after July 1, 2020, an
7.16 assisted living establishment must provide to prospective residents, the prospective resident's
7.17 designated representative, and any other person or persons the resident chooses:

7.18 (1) a written checklist listing all services permitted under the assisted living
7.19 establishment's license and identifying all services the assisted living establishment offers
7.20 to provide under the assisted living contract; and

7.21 (2) an oral explanation of the services offered under the assisted living contract.

7.22 (b) The requirements of paragraph (a) must be completed prior to the execution of an
7.23 assisted living contract.

7.24 (c) The commissioner must, in consultation with all interested stakeholders, design the
7.25 uniform checklist disclosure form for use as provided under paragraph (a).

7.26 Subd. 3. **Reservation of rights.** Nothing in this chapter or chapter 144I:

7.27 (1) requires a resident to utilize any service provided by or through, or made available
7.28 in, an assisted living establishment;

7.29 (2) prevents an assisted living establishment from requiring, as a condition of the assisted
7.30 living contract, that the resident pay for a package of services even if the resident does not
7.31 choose to utilize all or some of the services in the package;

8.1 (3) requires an assisted living establishment to fundamentally alter the nature of the
8.2 operations of the establishment in order to accommodate a resident's request; or

8.3 (4) affects the duty of an assisted living establishment to grant a resident's request for
8.4 reasonable accommodations.

8.5 **Sec. 4. [144J.04] NOTICE TO RESIDENTS OF CHANGE IN OWNERSHIP OR**
8.6 **MANAGEMENT.**

8.7 An assisted living establishment must provide prompt written notice to the resident or
8.8 resident's designated representative of any change of legal name, telephone number, and
8.9 physical mailing address, which may not be a public or private post office box, of:

8.10 (1) the owner or owners of the assisted living establishment or affiliated home care
8.11 provider or, after July 1, 2020, the assisted living establishment or affiliated home care
8.12 provider or housing with services registrant, if different from the owner or owners of the
8.13 assisted living establishment;

8.14 (2) the manager of the assisted living establishment; and

8.15 (3) the natural person authorized to accept legal process on behalf of the assisted living
8.16 establishment or affiliated home care provider.

8.17 **EFFECTIVE DATE.** This section is effective August 1, 2019.

8.18 **Sec. 5. [144J.05] NOTICES IN PLAIN LANGUAGE AND LANGUAGE**
8.19 **ACCOMMODATIONS.**

8.20 Assisted living establishments and affiliated home care providers must provide all notices
8.21 in plain language that residents can understand and make reasonable accommodations for
8.22 residents who have communication disabilities and those whose primary language is a
8.23 language other than English.

8.24 **EFFECTIVE DATE.** This section is effective August 1, 2019.

8.25 **Sec. 6. [144J.06] ASSISTED LIVING AND HOME CARE RIGHTS.**

8.26 Subdivision 1. **Definitions.** (a) "Assisted living establishment" includes an affiliated
8.27 home care provider.

8.28 (b) "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the
8.29 intentional and nontherapeutic infliction of physical pain or injury, or any persistent course
8.30 of conduct intended to produce mental or emotional distress.

9.1 (c) "Resident" means a person residing in an assisted living establishment or any person
9.2 receiving home care services from an affiliated or unaffiliated home care provider.

9.3 Subd. 2. **Applicability.** All home care providers, including those exempted from home
9.4 care licensure under section 144A.471, subdivision 8, must comply with this section and
9.5 the commissioner shall enforce this section against home care providers exempt from
9.6 licensure in the same manner as for licensees.

9.7 Subd. 3. **Legislative intent.** It is the intent of the legislature to promote the interests and
9.8 well-being of residents. It is the intent of this section that every resident's civil and religious
9.9 liberties, including the right to independent personal decisions and knowledge of available
9.10 choices, shall not be infringed and that the assisted living establishment or home care
9.11 provider must encourage and assist in the fullest possible exercise of these rights. The rights
9.12 established under this section for the benefit of residents do not limit the rights residents
9.13 have under other applicable law.

9.14 Subd. 4. **Right to information about rights.** (a) Before receiving services, residents
9.15 have the right to receive from the assisted living establishment or unaffiliated home care
9.16 provider written information about rights under this section in plain language and in terms
9.17 residents can understand. The provider must make reasonable accommodations for residents
9.18 who have communication disabilities and those who speak a language other than English.
9.19 The information must include:

9.20 (1) what recourse the resident has if rights are violated;

9.21 (2) the name, address, telephone number, and e-mail contact information of organizations
9.22 that provide advocacy and legal services for residents to enforce their rights including but
9.23 not limited to the designated protection and advocacy organization in Minnesota that provides
9.24 advice and representation to individuals with disabilities; and

9.25 (3) the name, address, telephone number, and e-mail contact information for government
9.26 agencies where the resident or private client may file a maltreatment report, complain, or
9.27 seek assistance, including the Office of Health Facility Complaints, the long-term care
9.28 ombudsman, and state and county agencies that regulate assisted living establishments and
9.29 home care providers.

9.30 (b) Upon request, residents and their designated representatives have the right to current
9.31 assisted living establishment or home care provider policies, inspection findings of state
9.32 and local health authorities, and further explanation of the rights provided under this section,
9.33 consistent with chapter 13 and section 626.557.

10.1 Subd. 5. **Right to courteous treatment.** Residents have the right to be treated with
10.2 courtesy and respect, and to have the resident's property treated with respect.

10.3 Subd. 6. **Right to appropriate care and services.** (a) Residents have the right to care
10.4 and services that are appropriate based on the resident's needs and according to an up-to-date
10.5 plan for care and services. All plans for care and services must be designed to enable residents
10.6 to achieve their highest level of emotional, psychological, physical, medical, and functional
10.7 well-being and safety.

10.8 (b) Residents have the right to receive medical and personal care and services with
10.9 continuity by people who are properly trained and competent to perform their duties and in
10.10 sufficient numbers to adequately provide the services agreed to in the assisted living contract
10.11 or home care service agreement.

10.12 Subd. 7. **Right to information about individuals providing services.** Residents have
10.13 the right to be told before receiving services the type and disciplines of staff who will be
10.14 providing the services, the frequency of visits proposed to be furnished, and other choices
10.15 that are available for addressing the resident's needs.

10.16 Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from
10.17 maltreatment.

10.18 Subd. 9. **Right to participate in care and service planning; notice of change.** Residents
10.19 have the right to actively participate in the planning, modification, and evaluation of their
10.20 care and services. This right includes:

10.21 (1) the opportunity to discuss care, services, treatment, and alternatives with the
10.22 appropriate caregivers;

10.23 (2) the opportunity to request and participate in formal care conferences;

10.24 (3) the right to include a family member or the resident's designated representative, or
10.25 both; and

10.26 (4) the right to be told in advance of, and take an active part in decisions regarding, any
10.27 recommended changes in the plan for care and services.

10.28 Subd. 10. **Right to disclosure of contract services and rights to purchase outside**
10.29 **services.** (a) Residents have the right to be informed, prior to receiving care or services
10.30 from an affiliated or unaffiliated home care provider and during their stay in an assisted
10.31 living establishment of:

11.1 (1) care and services which are included under the terms of the assisted living contract
11.2 and the home care service agreement, if applicable;

11.3 (2) information about care and other public services or private services that may be
11.4 available in the community at additional charges; and

11.5 (3) any limits to the services available from the assisted living establishment or an
11.6 unaffiliated home care provider.

11.7 (b) If an assisted living contract or home care service agreement permits changes in
11.8 services, residents have the right to reasonable, advance notice of any change.

11.9 (c) Residents have the right to purchase or rent goods or services not included in the
11.10 assisted living contract rate or home care service agreement rate from a supplier of their
11.11 choice unless otherwise provided by law. The supplier must ensure that these purchases are
11.12 sufficient to meet the medical or treatment needs of the residents.

11.13 (d) Residents have the right to change home care providers after services have begun,
11.14 within the limits of health insurance, long-term care insurance, medical assistance, or other
11.15 health programs, and contractual agreements.

11.16 (e) Home care providers must make every effort to assist residents in obtaining
11.17 information regarding whether the Medicare, medical assistance, or other public program
11.18 will pay for any or all of the services.

11.19 Subd. 11. **Right to information about charges.** (a) Before services are initiated, residents
11.20 have the right to be notified:

11.21 (1) of home care provider charges for the services;

11.22 (2) as to what extent payment may be expected from health insurance, public programs,
11.23 or other sources, if known; and

11.24 (3) what charges the resident may be responsible for paying.

11.25 (b) If an assisted living contract or home care service agreement permits changes in
11.26 charges, residents have the right to reasonable, advance notice of any change.

11.27 Subd. 12. **Right to information about health care treatment.** Where applicable,
11.28 residents have the right to be given by their physicians complete and current information
11.29 concerning their diagnosis, cognitive functioning level, treatment, alternatives, risks, and
11.30 prognosis as required by the physician's legal duty to disclose. This information must be in
11.31 terms and language the residents can reasonably be expected to understand. This information
11.32 shall include the likely medical or major psychological results of the treatment and its

12.1 alternatives. Residents receiving home care services from the assisted living establishment
12.2 directly, or through an affiliated home care provider, may be accompanied by a family
12.3 member or other designated representative, or both.

12.4 Subd. 13. **Right to refuse services or care.** (a) Residents have the right to refuse services
12.5 or care.

12.6 (b) Home care providers and assisted living establishments must document in the
12.7 resident's record that the home care provider informed residents who refuse care, services,
12.8 treatment, medication, or dietary restrictions of the likely medical, health-related, or
12.9 psychological consequences of the refusal.

12.10 (c) In cases where a resident is incapable of understanding the circumstances but has
12.11 not been adjudicated incompetent, or when legal requirements limit the right to refuse
12.12 medical treatment, the conditions and circumstances must be fully documented by the
12.13 attending physician in the resident's record.

12.14 Subd. 14. **Right to personal, treatment, and communication privacy.** (a) In assisted
12.15 living establishments, residents have the right to:

12.16 (1) every consideration of their privacy, individuality, and cultural identity as related to
12.17 their social, religious, and psychological well-being. Staff must respect the privacy of a
12.18 resident's space by knocking on the door and seeking consent before entering, except in an
12.19 emergency or where clearly inadvisable;

12.20 (2) respectfulness and privacy as they relate to the resident's medical and personal care
12.21 program. Case discussion, consultation, examination, and treatment are confidential and
12.22 must be conducted discreetly. Privacy must be respected during toileting, bathing, and other
12.23 activities of personal hygiene, except as needed for resident safety or assistance;

12.24 (3) communicate privately with persons of their choice;

12.25 (4) enter and, except as provided by civil commitment under chapter 253B or if not
12.26 residing in a secure assisted living establishment, leave the facility as they choose;

12.27 (5) private communication with a representative of a protection and advocacy services
12.28 agency; and

12.29 (6) access Internet service at their expense, unless offered by the home care provider or
12.30 assisted living establishment.

12.31 (b) Personal mail must be sent by the assisted living establishment without interference
12.32 and received unopened unless medically or programmatically contraindicated and

13.1 documented by the physician or advanced practice registered nurse in the resident's record.
13.2 Residents must be provided access to a telephone to make and receive calls as well as speak
13.3 privately. Assisted living establishments that are unable to provide a private area must make
13.4 reasonable arrangements to accommodate the privacy of residents' calls.

13.5 Subd. 15. **Right to confidentiality of records.** Residents have the right to have personal,
13.6 financial, and medical information kept private, to approve or refuse release of information
13.7 to any outside party, and to be advised of the assisted living establishment and home care
13.8 providers' policies and procedures regarding disclosure of the information. Residents must
13.9 be notified when personal records are requested by any outside party.

13.10 Subd. 16. **Right to visitors and social participation.** (a) Residents have the right of
13.11 reasonable access at reasonable times, or any time when the resident's welfare is in immediate
13.12 jeopardy, to any available rights protection services and advocacy services.

13.13 (b) Residents have the right to meet with or receive visits at reasonable times by the
13.14 resident's guardian, conservator, health care agent, family, attorney, advocate, religious or
13.15 social work counselor, or any person of the resident's choosing, or at any time when the
13.16 resident's welfare is in immediate jeopardy.

13.17 (c) Residents have the right to participate in commercial, religious, social, community,
13.18 and political activities without interference and at their discretion if the activities do not
13.19 infringe on the right to privacy of other residents.

13.20 Subd. 17. **Right to designate representative.** Residents have the right to name a
13.21 designated representative. Before or at the time of execution of an assisted living contract,
13.22 assisted living establishments must offer the resident the opportunity to identify a designated
13.23 representative in writing in the contract. Residents have the right at any time at or after they
13.24 enter into an assisted living contract to name a designated representative.

13.25 Subd. 18. **Right to form family and advisory councils.** Residents in assisted living
13.26 establishments and their families have the right to organize, maintain, and participate in
13.27 resident family and advisory councils. Assisted living establishments must provide assistance
13.28 and space for meetings and afford privacy. Staff or visitors may attend only upon the council's
13.29 invitation. A staff person must be designated the responsibility of providing this assistance
13.30 and responding to written requests that result from council meetings. Resident and family
13.31 councils must be encouraged to make recommendations regarding establishment policies.

13.32 Subd. 19. **Right to complain.** Residents have the right to:

13.33 (1) complain or inquire about either care or services that are provided or not provided;

14.1 (2) complain about the lack of courtesy or respect to the resident or to the resident's
14.2 property;

14.3 (3) know how to contact the agent of the assisted living establishment or unaffiliated
14.4 home care provider who is responsible for handling complaints and inquiries;

14.5 (4) have the assisted living establishment or the unaffiliated home care provider conduct
14.6 an investigation, attempt to resolve, and provide a timely response to the complaint or
14.7 inquiry; and

14.8 (5) recommend changes in policies and services to staff and others of their choice.

14.9 Subd. 20. **Right to assert rights.** Residents, their designated representatives, or any
14.10 person or persons on behalf of the resident have the right to assert the rights granted to
14.11 residents under this section or any other section.

14.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

14.13 Sec. 7. **[144J.07] ELECTRONIC MONITORING.**

14.14 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
14.15 the meanings given them.

14.16 (b) "Electronic monitoring device" means a camera or other device that captures, records,
14.17 or broadcasts audio, video, or both, that is placed in a resident's room or private living space
14.18 and is used to monitor the resident or activities in the room or private living space.

14.19 (c) "Facility" means a facility that is:

14.20 (1) licensed as a nursing home under chapter 144A;

14.21 (2) licensed as a boarding care home under sections 144.50 to 144.56; or

14.22 (3) an assisted living establishment, as defined in section 144J.01, subdivision 6.

14.23 (d) "Resident representative" means a court-appointed guardian, health care agent under
14.24 section 145C.01, subdivision 2, or a person chosen by the resident and identified in the
14.25 resident's records on file with the facility.

14.26 Subd. 2. **Electronic monitoring authorized.** (a) A facility must allow a resident or a
14.27 resident representative to conduct electronic monitoring of the resident's room or private
14.28 living space as provided in this section.

14.29 (b) Nothing in this section precludes the use of electronic monitoring of health care
14.30 allowed under other law.

15.1 Subd. 3. **Consent on behalf of a resident.** (a) If the resident has not affirmatively
15.2 objected to electronic monitoring and the resident's health care provider determines that the
15.3 resident lacks the ability to understand and appreciate the nature and consequences of
15.4 electronic monitoring, the resident representative may consent on behalf of the resident,
15.5 subject to paragraph (b). For purposes of this subdivision, a resident affirmatively objects
15.6 when the resident orally, visually, or through the use of auxiliary aids or services declines
15.7 electronic monitoring.

15.8 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
15.9 be asked by the resident representative if the resident wants electronic monitoring to be
15.10 conducted. The resident representative must explain to the resident:

15.11 (1) the reason for placing the electronic monitoring device;

15.12 (2) the type of electronic monitoring device to be used;

15.13 (3) that the resident may place conditions on the electronic monitoring device's use, as
15.14 provided under subdivision 7, paragraph (a), clause (6);

15.15 (4) with whom the recording may be shared under this section; and

15.16 (5) the resident's ability to decline all recording.

15.17 The resident's response must be documented on the notification and consent form.

15.18 (c) A resident may set conditions for use of the electronic monitoring device, including
15.19 the list of standard conditions provided under subdivision 7, paragraph (a), clause (6).

15.20 (d) A resident may request that the electronic monitoring device be turned off or the
15.21 visual or audio recording component of the electronic monitoring device be blocked at any
15.22 time.

15.23 (e) A resident may withdraw the consent made on the resident's behalf at any time by
15.24 affirmatively objecting to the monitoring.

15.25 Subd. 4. **Roommate consent.** (a) Prior to implementing electronic monitoring, a resident
15.26 or a resident representative must obtain the written consent on the notification and consent
15.27 form of any other resident residing in the room or private living space.

15.28 (b) If the roommate has not affirmatively objected to the electronic monitoring in
15.29 accordance with this subdivision and the roommate's physician determines that the roommate
15.30 lacks the ability to understand and appreciate the nature and consequences of electronic
15.31 monitoring, the roommate's resident representative may consent on behalf of the roommate.
15.32 The roommate and the roommate's resident representative must be told:

16.1 (1) the reason for placing the electronic monitoring device;

16.2 (2) the type of electronic monitoring device to be used;

16.3 (3) that they can place conditions on the electronic monitoring device's use, including
16.4 those listed under subdivision 7, paragraph (a), clause (6);

16.5 (4) with whom the recording may be shared under this section; and

16.6 (5) their ability to decline all recording.

16.7 (c) A roommate or roommate's resident representative may consent to electronic
16.8 monitoring with any conditions of the roommate's choosing, including the list of standard
16.9 conditions listed under subdivision 7, paragraph (a), clause (6). A roommate may request
16.10 that the visual or audio recording component of the electronic monitoring device be disabled
16.11 or blocked at any time.

16.12 (d) The roommate or roommate's resident representative may withdraw consent at any
16.13 time by submitting written notice to the facility.

16.14 (e) Any resident currently conducting electronic monitoring must obtain consent from
16.15 any new roommate before the resident continues authorized electronic monitoring. If a new
16.16 roommate does not consent to electronic monitoring and the resident conducting the electronic
16.17 monitoring does not remove the electronic monitoring device, the facility must remove the
16.18 electronic monitoring device.

16.19 Subd. 5. **Reasonable accommodation.** (a) If a resident of a facility who is residing in
16.20 a shared room wants to conduct electronic monitoring and another resident living in or
16.21 moving into the same shared room refuses to consent to the use of an electronic monitoring
16.22 device, the facility must make a reasonable attempt to accommodate the resident who wants
16.23 to conduct electronic monitoring. A facility has met the requirement to make a reasonable
16.24 attempt when upon notification that a roommate has not consented to the use of an electronic
16.25 monitoring device in the resident's room, the facility offers to move the resident to another
16.26 shared room that is available at the time of the request.

16.27 (b) If a resident chooses to reside in a private room in a facility in order to accommodate
16.28 the use of an electronic monitoring device, the resident must pay the private room rate. If
16.29 a facility is unable to accommodate a resident due to lack of space, the facility must
16.30 reevaluate the request every two weeks until the request is fulfilled. Notwithstanding any
16.31 other provision of this chapter, a facility is not required to provide a private room or a
16.32 single-bed room to a resident who is not a private-pay resident.

17.1 Subd. 6. Notice of monitoring to the facility; exceptions to required notice. (a)

17.2 Electronic monitoring may begin only after the resident or resident representative who
17.3 intends to place an electronic monitoring device completes and submits to the facility a
17.4 notification and consent form prescribed by the commissioner.

17.5 (b) Notwithstanding paragraph (a), the resident or resident representative who intends
17.6 to place an electronic monitoring device may do so without submitting a notification and
17.7 consent form to the facility:

17.8 (1) for up to 30 days if the resident or the resident representative reasonably fears
17.9 retaliation against the resident by the facility and timely submits a Minnesota Adult Abuse
17.10 Reporting Center report or police report, or both, upon evidence from the electronic
17.11 monitoring device that suspected maltreatment has occurred;

17.12 (2) for up to 30 days if there has not been a timely written response from the facility to
17.13 a written communication from the resident or resident representative expressing a concern
17.14 prompting the desire for placement of an electronic monitoring device; or

17.15 (3) for up to 30 days if the resident or resident representative has already submitted a
17.16 Minnesota Adult Abuse Reporting Center report or police report regarding the resident's
17.17 concerns prompting the desire for placement.

17.18 Subd. 7. Notification and consent form requirements. (a) The notification and consent
17.19 form must include, at a minimum, the following information:

17.20 (1) the resident's signed consent to electronic monitoring or the signature of the resident
17.21 representative, if applicable. If the resident representative signs the consent form, the form
17.22 must document the following:

17.23 (i) the date the resident was asked if the resident wants electronic monitoring to be
17.24 conducted;

17.25 (ii) who was present when the resident was asked; and

17.26 (iii) an acknowledgment that the resident did not affirmatively object;

17.27 (2) the resident's roommate's signed consent or the signature of the roommate's resident
17.28 representative, if applicable. If a roommate's resident representative signs the consent form,
17.29 the form must document the following:

17.30 (i) the date the roommate was asked if the roommate consents to electronic monitoring;

17.31 (ii) who was present when the roommate was asked; and

17.32 (iii) an acknowledgment that the roommate did not affirmatively object;

- 18.1 (3) the type of electronic monitoring device to be used;
- 18.2 (4) any installation needs, including the mounting of a device to a wall or ceiling;
- 18.3 (5) the proposed date of installation for scheduling purposes;
- 18.4 (6) a list of standard conditions or restrictions that the resident or a roommate may elect
- 18.5 to place on the use of the electronic monitoring device including but not limited to:
- 18.6 (i) prohibiting audio recording;
- 18.7 (ii) prohibiting video recording;
- 18.8 (iii) prohibiting broadcasting of audio or video;
- 18.9 (iv) turning off the electronic monitoring device or blocking the visual recording
- 18.10 component of the electronic monitoring device for the duration of an exam or procedure by
- 18.11 a health care professional;
- 18.12 (v) turning off the electronic monitoring device or blocking the visual recording
- 18.13 component of the electronic monitoring device while dressing or bathing is performed; and
- 18.14 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
- 18.15 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;
- 18.16 (7) any other condition or restriction elected by the resident or roommate on the use of
- 18.17 an electronic monitoring device;
- 18.18 (8) a signature box for documenting that the resident or roommate has withdrawn consent;
- 18.19 and
- 18.20 (9) a statement of the circumstances under which a recording may be disseminated under
- 18.21 subdivision 10.
- 18.22 (b) Subject to subdivision 6, paragraph (b), copies of the completed notification and
- 18.23 consent form must be provided to the resident and the resident's roommate, if applicable.
- 18.24 Copies of all completed notification and consent forms must be submitted to the facility,
- 18.25 and the facility must keep the notification and consent forms on file in a location separate
- 18.26 from the resident's clinical record.
- 18.27 (c) The commissioner must prepare a notification and consent form required in this
- 18.28 section no later than August 1, 2019, and must make the form available on the department's
- 18.29 website.

19.1 Subd. 8. **Costs and installation.** (a) A resident or resident representative choosing to
19.2 conduct electronic monitoring must do so at the resident's own expense, including paying
19.3 for the purchase, installation, maintenance, and removal costs.

19.4 (b) If a resident chooses to install an electronic monitoring device that uses Internet
19.5 technology for visual or audio monitoring and Internet service is not included in the rate or
19.6 available through facility, the resident may be responsible for contracting with an Internet
19.7 service provider.

19.8 (c) The facility must make a reasonable attempt to accommodate the resident's installation
19.9 needs, including allowing access to the facility's telecommunications or equipment room.
19.10 A facility has the burden of proving that a requested accommodation is not reasonable.

19.11 (d) All electronic monitoring device installations and supporting services must be
19.12 Underwriters Laboratories-listed.

19.13 Subd. 9. **Notice to visitors.** A facility must post a sign at each entrance accessible to
19.14 visitors that states: "Electronic monitoring devices may be present to record persons and
19.15 activities" using bold typeface and using a font size that can be easily seen. The facility is
19.16 responsible for installing and maintaining the signage required in this subdivision.

19.17 Subd. 10. **Dissemination of data.** (a) No person may access any video or audio recording
19.18 created through electronic monitoring without the written consent of the resident or the
19.19 resident representative.

19.20 (b) Except as required under other law, a recording or copy of a recording made as
19.21 provided in this section may only be disseminated for the purpose of addressing health,
19.22 safety, or welfare concerns of a resident or residents.

19.23 (c) Disseminating a recording or a copy of a recording that was made according to this
19.24 section but in violation of this subdivision may be grounds for civil or criminal liability.

19.25 (d) An employee of a facility who is the subject of proposed corrective or disciplinary
19.26 action based upon evidence obtained by electronic monitoring must be given access to that
19.27 evidence for purposes of defending against the proposed action. The recording or a copy
19.28 of the recording must be treated confidentially by the employee and must not be further
19.29 disseminated to any other person except as required under law. Any copy of the recording
19.30 must be returned to the facility or resident who provided the copy when it is no longer
19.31 needed for purposes of defending against a proposed action.

20.1 Subd. 11. **Facility liability.** (a) A facility is not civilly or criminally liable for the
20.2 inadvertent or unintentional disclosure of a recording by a resident or a resident representative
20.3 for any purpose not authorized by this section.

20.4 (b) A facility is not civilly or criminally liable for a violation of a resident's right to
20.5 privacy based solely on the use of electronic monitoring conducted as provided for in this
20.6 section.

20.7 Subd. 12. **Obstruction of electronic monitoring.** (a) A person must not knowingly
20.8 hamper, obstruct, tamper with, or destroy an electronic monitoring device installed in a
20.9 resident's room or private living space without the permission of the resident or the resident's
20.10 legal representative.

20.11 (b) It is not a violation of this subdivision if a person turns off the electronic monitoring
20.12 device or blocks the visual recording component of the electronic monitoring device at the
20.13 direction of the resident or the resident's legal representative, or if consent for use of
20.14 electronic monitoring has been withdrawn.

20.15 Subd. 13. **Resident rights and protection.** A facility must not:

20.16 (1) refuse to admit a potential resident or remove a resident because the facility disagrees
20.17 with the potential resident's or the resident representative's decisions regarding electronic
20.18 monitoring;

20.19 (2) retaliate against any resident for consenting or refusing to consent to electronic
20.20 monitoring under this section; or

20.21 (3) prevent the placement or use of an electronic monitoring device by a resident who
20.22 has provided the facility with notice and consent as required under this section.

20.23 Subd. 14. **Penalties.** The commissioner may issue a correction order upon a finding that
20.24 the facility has failed to comply with this section. The commissioner may impose a fine of
20.25 up to \$500 upon a finding of noncompliance with a correction order issued under this
20.26 subdivision.

20.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

20.28 Sec. 8. **[144J.08] USE OF RESTRAINTS IN ASSISTED LIVING**
20.29 **ESTABLISHMENTS.**

20.30 Residents of assisted living establishments must be free from any physical or chemical
20.31 restraints imposed for purposes of discipline or convenience.

20.32 **EFFECTIVE DATE.** This section is effective August 1, 2019.

21.1 **Sec. 9. [144J.09] RETALIATION PROHIBITED IN ASSISTED LIVING**
21.2 **ESTABLISHMENTS.**

21.3 (a) No assisted living establishment or agent of the assisted living establishment may
21.4 retaliate against a resident or employee if the resident, employee, or any person on behalf
21.5 of the resident:

21.6 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

21.7 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
21.8 right;

21.9 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
21.10 voluntary, under section 626.557;

21.11 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
21.12 problems or concerns to the administrator or manager of an assisted living establishment,
21.13 the long-term care ombudsman, a regulatory or other government agency, or a legal or
21.14 advocacy organization;

21.15 (5) advocates or seeks advocacy assistance for necessary or improved care or services
21.16 or enforcement of rights under this section or other law;

21.17 (6) takes or indicates an intention to take civil action;

21.18 (7) participates or indicates an intention to participate in any investigation or
21.19 administrative or judicial proceeding;

21.20 (8) contracts or indicates an intention to contract to receive services from a service
21.21 provider of the resident's choice other than the assisted living establishment; or

21.22 (9) places or indicates an intention to place a camera or electronic monitoring device in
21.23 the resident's private space as provided under section 144J.07.

21.24 (b) For purposes of this section, to "retaliate" against a resident includes but is not limited
21.25 to any of the following actions taken or threatened by an assisted living establishment or
21.26 an agent of the assisted living establishment against a resident, or any person with a familial,
21.27 personal, legal, or professional relationship with the resident:

21.28 (1) discharge, eviction, transfer, or termination of services;

21.29 (2) the imposition of discipline, punishment, or a sanction or penalty;

21.30 (3) any form of discrimination;

21.31 (4) restriction or prohibition of access;

- 22.1 (i) of the resident to the facility or visitors; or
- 22.2 (ii) of a family member or a person with a personal, legal, or professional relationship
- 22.3 with the resident, to the resident;
- 22.4 (5) imposition of involuntary seclusion or the withholding of food, care, or services;
- 22.5 (6) restriction of any of the rights granted to residents under state or federal law;
- 22.6 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
- 22.7 living arrangements;
- 22.8 (8) arbitrary increase in charges or fees;
- 22.9 (9) removal, tampering with, or deprivation of technology, communication, or electronic
- 22.10 monitoring devices; or
- 22.11 (10) any oral or written communication of false information about a person advocating
- 22.12 on behalf of the resident.
- 22.13 (c) For purposes of this section, to "retaliate" against an employee includes but is not
- 22.14 limited to any of the following actions taken or threatened by the assisted living establishment
- 22.15 or an agent of the assisted living establishment against an employee:
- 22.16 (1) discharge or transfer;
- 22.17 (2) demotion or refusal to promote;
- 22.18 (3) reduction in compensation, benefits, or privileges;
- 22.19 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- 22.20 (5) any form of discrimination.
- 22.21 (d) There is a rebuttable presumption that any action, described in paragraph (b) or (c)
- 22.22 and taken within 90 days of an initial action described in paragraph (a), is retaliatory.
- 22.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 22.24 **Sec. 10. [144J.10] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
- 22.25 **PROHIBITED.**
- 22.26 (a) For the purposes of this section, "provider" includes an assisted living establishment
- 22.27 and an affiliated home care provider.
- 22.28 (b) Deceptive marketing and business practices by providers are prohibited. No employee
- 22.29 or agent of any provider may:

23.1 (1) make any false, fraudulent, deceptive, or misleading statements or representations,
23.2 or material omissions, in marketing, advertising, or any other description or representation
23.3 of care or services;

23.4 (2) fail to inform a resident in writing of any limitations to care services available prior
23.5 to executing an assisted living contract or home care service agreement; or

23.6 (3) advertise or represent that the assisted living establishment has a special care unit,
23.7 such as for dementia or memory care, without:

23.8 (i) complying with disclosure requirements under sections 325F.72 and any training
23.9 requirements required by law or rule; and

23.10 (ii) after July 1, 2020, meeting and complying with all the requirements under chapter
23.11 144I and any adopted rules.

23.12 **EFFECTIVE DATE.** This section is effective August 1, 2019.

23.13 **Sec. 11. [144J.11] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

23.14 Assisted living establishments and affiliated home care providers must, regardless of
23.15 the source of payment and for all persons seeking to reside or residing in the assisted living
23.16 establishment:

23.17 (1) provide equal access to quality care; and

23.18 (2) establish, maintain, and implement identical policies and practices regarding residency,
23.19 transfer, and provision and termination of services.

23.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

23.21 **Sec. 12. [144J.12] ASSESSMENT OF RESIDENTS.**

23.22 (a) For each prospective resident, an assisted living establishment must conduct an initial
23.23 assessment to determine the person's physical, cognitive, social, and service needs, and
23.24 propose a plan for care and services based on the assessment, before the earlier of the date
23.25 the prospective resident:

23.26 (1) enters into an assisted living contract under section 144J.02; or

23.27 (2) moves in.

23.28 (b) An assisted living establishment must conduct ongoing physical, cognitive, social,
23.29 and service assessments to identify changes in the resident's conditions and indicate necessary
23.30 changes in the resident's plan for care and services based on the assessment.

24.1 (c) The portion of the assessment that involves the prospective resident or resident's
24.2 physical and cognitive condition must be conducted by a registered nurse, as required by
24.3 applicable home care licensure requirements in chapter 144A and sections 148.171 to
24.4 148.285. The social and service components must be conducted by a qualified professional.

24.5 (d) The prospective resident has the right to participate in the care and service planning
24.6 process and may include the prospective resident's designated representative, one or more
24.7 family members, any health care and social service professionals of the resident's choosing,
24.8 and the prospective resident's home care provider.

24.9 (e) The commissioner must adopt rules establishing assessment standards.

24.10 **EFFECTIVE DATE.** This section is effective July 1, 2020.

24.11 Sec. 13. **[144J.13] ASSISTED LIVING ESTABLISHMENTS; INVOLUNTARY**
24.12 **DISCHARGES AND SERVICE TERMINATIONS.**

24.13 Subdivision 1. **Definition.** "Termination of housing or services" means an involuntary
24.14 discharge, eviction, transfer, or service termination.

24.15 Subd. 2. **Prerequisite to termination of housing or services.** Before involuntarily
24.16 terminating a resident's housing or services, an assisted living establishment must explain
24.17 in detail the reasons for the termination and work with the resident, the resident's designated
24.18 representative, the resident's family, applicable agencies, and any relevant health-related or
24.19 social service professionals to identify and offer reasonable accommodations, interventions,
24.20 or alternatives to avoid the termination.

24.21 Subd. 3. **Permissible reasons to terminate housing or services.** (a) An assisted living
24.22 establishment is prohibited from involuntarily terminating housing or services for grounds
24.23 other than those specified in paragraphs (b) and (c).

24.24 (b) A resident's housing or services may not be involuntarily terminated except upon a
24.25 written determination, supported by documentation, by the assisted living establishment
24.26 administrator that termination is necessary because:

24.27 (1) it is mandated by law or court order;

24.28 (2) the resident has engaged in a documented pattern of conduct that:

24.29 (i) endangers the resident's own health, safety, or well-being;

24.30 (ii) endangers the health or safety of other residents or staff of the assisted living
24.31 establishment or affiliated home care provider;

25.1 (iii) repeatedly and substantially interferes with the rights, health, safety, or well-being
25.2 of other residents; or

25.3 (3) the resident has committed any of the acts enumerated under section 504B.171,
25.4 subdivision 1.

25.5 (c) A resident's housing or services may be involuntarily terminated if the needs of the
25.6 resident exceed the scope of the services for which the resident contracted for or, after July
25.7 1, 2020, exceed the scope of the assisted living establishment's license, only:

25.8 (1) upon a certification by the assisted living establishment administrator, based on an
25.9 evaluation by a disinterested, licensed health care professional; and

25.10 (2) if the resident's needs cannot be safely met by reasonable accommodations,
25.11 interventions, or alternatives.

25.12 (d) An assisted living establishment may initiate discharge, eviction, transfer, or
25.13 termination of home care services procedures for nonpayment, provided the assisted living
25.14 establishment:

25.15 (1) makes reasonable efforts to accommodate temporary financial hardship and provide
25.16 information on government or private subsidies that may be available;

25.17 (2) timely responds to county social service agency questions regarding Medicaid or
25.18 other public benefit eligibility and payment process; and

25.19 (3) provides the notice required under subdivision 4 to the ombudsman for long-term
25.20 care.

25.21 A temporary interruption in benefits does not constitute nonpayment.

25.22 (e) When an affiliated home care provider voluntarily discontinues services to all
25.23 residents, the affiliated home care provider must notify the commissioner, lead agencies,
25.24 and ombudsman for long-term care about the residents and comply with the requirements
25.25 of subdivisions 4 and 5.

25.26 Subd. 4. **Advance notice required.** An assisted living establishment must provide at
25.27 least 30 days' advance notice to the resident and the ombudsman for long-term care of a
25.28 termination of housing or services, except as provided in subdivision 6.

25.29 Subd. 5. **Content of notice.** The notice required under subdivision 4 must contain, at a
25.30 minimum:

25.31 (1) the effective date of termination of housing or services;

- 26.1 (2) a detailed explanation of the basis for the termination, including but not limited to
26.2 clinical or other supporting rationale;
- 26.3 (3) a list of known assisted living establishments and unaffiliated home care providers
26.4 in the immediate geographic area;
- 26.5 (4) a statement that the resident has the right to appeal the termination, an explanation
26.6 of how and to whom to appeal, and contact information for the Office of Administrative
26.7 Hearings;
- 26.8 (5) information on how to contact the ombudsman for long-term care;
- 26.9 (6) if the resident must relocate, a statement that the assisted living establishment must
26.10 actively participate in a coordinated transfer of care of the resident to another provider or
26.11 caregiver, as required under subdivision 8.
- 26.12 (7) the name and contact information of a person employed by the assisted living
26.13 establishment with whom the resident may discuss the notice of termination of housing or
26.14 services; and
- 26.15 (8) if the termination is for services, a statement, if applicable, that the notice of
26.16 termination of services does not constitute a termination of housing or an eviction from the
26.17 resident's home, and that the resident has the right to remain in the assisted living
26.18 establishment if the resident can secure necessary home care services from an unaffiliated
26.19 home care provider.
- 26.20 Subd. 6. **Exception for emergencies.** (a) An assisted living establishment may relocate
26.21 a resident from an assisted living establishment with less than 30 days' notice if:
- 26.22 (1) emergency relocation is ordered by the resident's physician; or
- 26.23 (2) the assisted living establishment administrator, based on documented evidence,
26.24 determines that the resident needs to be immediately relocated because the resident or
26.25 another resident or staff member of the assisted living establishment is at imminent risk of:
- 26.26 (i) death;
- 26.27 (ii) life-threatening harm;
- 26.28 (iii) substantial harm, as that term is defined in section 609.02, subdivision 7a; or
- 26.29 (iv) great bodily harm, as that term is defined in section 609.02, subdivision 8.
- 26.30 (b) An assisted living establishment relocating a resident under this subdivision must:
- 26.31 (1) ensure that the resident is moved to a safe and appropriate location;

27.1 (2) immediately notify the ombudsman for long-term care and the resident's designated
27.2 representative or, if no designated representative and if known, a family member or interested
27.3 person:

27.4 (i) that the resident has been relocated;

27.5 (ii) the reason for the relocation; and

27.6 (iii) the name, address, telephone number, and any other relevant contact information
27.7 of the location to which the resident has been transferred; and

27.8 (3) upon removal of the conditions precipitating the emergency transfer, work and
27.9 coordinate with the resident or the resident's designated representative and family, if
27.10 applicable, to enable the resident to return to the assisted living establishment or, if return
27.11 is not feasible or if any of the conditions under subdivision 3 exist, provide the resident with
27.12 all the rights available under this section.

27.13 Subd. 7. **Right to appeal termination of housing or services.** (a) A resident or resident's
27.14 designated representative has the right to appeal a termination of housing or services and
27.15 request a hearing from the Office of Administrative Hearings. An appeal must be filed, in
27.16 writing, to the Office of Administrative Hearings.

27.17 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon
27.18 as practicable after the office receives the request. The hearing must be held at the assisted
27.19 living establishment where the resident lives, unless it is impractical, or the parties agree
27.20 to a different place.

27.21 (c) The assisted living establishment bears the burden of proof to establish the termination
27.22 of housing or services is permissible.

27.23 (d) During the pendency of an appeal and until a final determination is made by the
27.24 Office of Administrative Hearings:

27.25 (1) housing or services may not be terminated; and

27.26 (2) the resident must be readmitted if the resident was hospitalized for medical necessity.

27.27 (e) The commissioner of health may order the assisted living establishment to rescind
27.28 the termination of housing and services if the termination was in violation of state or federal
27.29 law.

27.30 (f) Nothing in this section limits the right of a resident or the resident's designated
27.31 representative to request or receive assistance from the ombudsman for long-term care and
27.32 the protection and advocacy agency concerning the termination of housing or services.

28.1 Subd. 8. Discharge planning. (a) Unless the resident or the designated representative
28.2 indicates a desire to assume full control of arranging the resident's relocation, the assisted
28.3 living establishment from which a resident must relocate under this section:

28.4 (1) has an affirmative duty to ensure a coordinated and orderly transfer of the resident
28.5 to a safe location that is appropriate for the resident; and

28.6 (2) must consult and cooperate with the resident, the resident's designated representative,
28.7 family members, any interested professionals, and applicable agencies to make arrangements
28.8 to relocate the resident.

28.9 (b) The assisted living establishment must prepare a written relocation plan. The plan
28.10 must:

28.11 (1) contain all necessary steps to be taken to reduce transfer trauma; and

28.12 (2) specify the measures to be taken until relocation to protect the resident and meet the
28.13 resident's health and safety needs.

28.14 (c) An assisted living establishment may not relocate the resident unless the place to
28.15 which the resident is to be relocated indicates it will accept the resident.

28.16 (d) An assisted living establishment must timely convey the resident's records and any
28.17 medication for which it is responsible to the location to which the resident will be transferred.

28.18 (e) An assisted living establishment must notify the ombudsman for long-term care, the
28.19 Department of Health, and, if the resident is a vulnerable adult as defined in section 626.5572,
28.20 subdivision 21, adult protective services, if:

28.21 (1) the resident whose housing or services are being terminated does not have a designated
28.22 representative, family member, an agency responsible for the resident's placement, or any
28.23 other person who agrees to assist with or assumes responsibility for the relocation; or

28.24 (2) a safe and appropriate relocation place for the resident whose housing or services
28.25 are being terminated cannot be found.

28.26 **EFFECTIVE DATE.** This section is effective August 1, 2019.

28.27 Sec. 14. [144J.14] FORCED ARBITRATION.

28.28 (a) An assisted living establishment must affirmatively disclose to the resident any forced
28.29 arbitration provision in an assisted living contract that precludes, limits, or delays the ability
28.30 of a resident from taking a civil action. For contracts entered into on or after July 1, 2020,
28.31 forced arbitration provisions must be conspicuously disclosed in a contract.

29.1 (b) A forced arbitration requirement must not include a choice of law or choice of venue
29.2 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
29.3 federal or local law. Any civil actions by any litigant must be taken in Minnesota courts.

29.4 (c) A forced arbitration provision must not be unconscionable. All or the portion of a
29.5 forced arbitration provision found by a court to be unconscionable shall have no effect on
29.6 the remaining provisions, terms, or conditions of the contract.

29.7 **EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered
29.8 into on or after that date.

29.9 **Sec. 15. [144J.15] PRIVATE ENFORCEMENT OF RIGHTS.**

29.10 (a) For a violation of section 144J.06, subdivisions 9, 16, 19, or 20, or 144J.09, a resident
29.11 or resident's legal representative, may bring a civil action against an assisted living
29.12 establishment and recover actual damages or \$3,000, whichever is greater, plus costs,
29.13 including costs of investigation, and reasonable attorney fees, and receive other equitable
29.14 relief as determined by the court in addition to seeking any other remedy otherwise available
29.15 under law.

29.16 (b) For a violation of section 144J.10, 144J.11, or 144J.14, a resident is entitled to a
29.17 permanent injunction, and any other legal or equitable relief as determined by the court,
29.18 including but not limited to reformation of the contract and restitution for harm suffered,
29.19 plus reasonable attorney fees and costs.

29.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.

29.21 **Sec. 16. [144J.16] APPLICABILITY OF OTHER LAWS.**

29.22 (a) Assisted living establishments are subject to and must comply with chapter 504B.

29.23 (b) Housing with services establishments who operate under title protection under chapter
29.24 144G and, after July 1, 2020, all licensed assisted living establishments must comply with
29.25 section 325F.72.

29.26 (c) Assisted living establishments are not required to obtain a lodging license under
29.27 chapter 157 and related rules.

29.28 **EFFECTIVE DATE.** This section is effective August 1, 2019.

30.1 Sec. 17. Minnesota Statutes 2018, section 325F.72, subdivision 4, is amended to read:

30.2 Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31
 30.3 for repeated and intentional violations of this section. ~~However, no private right of action~~
 30.4 ~~may be maintained as provided under section 8.31, subdivision 3a.~~

30.5 Sec. 18. **REPEALER.**

30.6 (a) Minnesota Statutes 2018, sections 144A.44; 144A.441; 144A.442; 144D.07; 144G.03,
 30.7 subdivision 6; and 144G.04, are repealed effective August 1, 2019.

30.8 (b) Minnesota Statutes 2018, sections 144D.04, subdivisions 2 and 3; and 144D.045,
 30.9 are repealed effective January 1, 2020.

30.10 ARTICLE 2

30.11 NURSING HOMES

30.12 Section 1. Minnesota Statutes 2018, section 144.651, subdivision 1, is amended to read:

30.13 Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of
 30.14 this section to promote the interests and well being of the patients and residents of health
 30.15 care facilities. No health care facility may require a patient or resident to waive these rights
 30.16 as a condition of admission to the facility. Any designated representative, guardian, or
 30.17 conservator of a patient or resident ~~or, in the absence of a guardian or conservator, an~~
 30.18 ~~interested person,~~ may seek enforcement of these rights on behalf of a patient or resident.
 30.19 ~~An interested person~~ A designated representative may also seek enforcement of these rights
 30.20 on behalf of a patient or resident who has a guardian or conservator through administrative
 30.21 agencies or in district court ~~having jurisdiction over guardianships and conservatorships,~~
 30.22 under section 144.6512. Pending the outcome of an enforcement proceeding the health care
 30.23 facility may, in good faith, comply with the instructions of a guardian or conservator. It is
 30.24 the intent of this section that every patient's civil and religious liberties, including the right
 30.25 to independent personal decisions and knowledge of available choices, shall not be infringed
 30.26 and that the facility shall encourage and assist in the fullest possible exercise of these rights.

30.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

31.1 Sec. 2. Minnesota Statutes 2018, section 144.651, is amended by adding a subdivision to
31.2 read:

31.3 Subd. 34. **Retaliation prohibited.** (a) A facility may not retaliate against a patient,
31.4 resident, or employee if the resident or any person with a familial, personal, legal, or
31.5 professional relationship with the patient or resident:

31.6 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

31.7 (2) indicates an intention to file a complaint or grievance, makes an inquiry, or asserts
31.8 any right;

31.9 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
31.10 voluntary, under section 626.557;

31.11 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
31.12 problems or concerns to the administrator or manager of a facility, the ombudsman for
31.13 long-term care, a regulatory or other government agency, or a legal or advocacy organization;

31.14 (5) advocates or seeks advocacy assistance for necessary or improved care or services
31.15 or enforcement of rights under this section or other law;

31.16 (6) takes or indicates an intention to take civil action; or

31.17 (7) participates or indicates an intention to participate in any investigation or
31.18 administrative or judicial proceeding.

31.19 (b) For purposes of this subdivision, "facility" includes an agent of the facility.

31.20 (c) For the purposes of this subdivision, to "retaliate" against a patient or resident includes
31.21 but is not limited to any of the following actions taken or threatened by the facility against
31.22 a patient or resident, or any person with a familial, personal, legal, or professional relationship
31.23 with the patient or resident:

31.24 (1) discharge, transfer, or termination of services;

31.25 (2) the imposition of discipline, punishment, or a sanction or penalty;

31.26 (3) any form of discrimination;

31.27 (4) restricting or prohibiting access:

31.28 (i) of the patient or resident to the facility or visitors; or

31.29 (ii) of a family member or a person with a personal, legal, or professional relationship
31.30 with the patient or resident, to the patient or resident;

32.1 (5) imposition of involuntary seclusion or withholding food, care, or services;

32.2 (6) restriction of any of the rights granted to patients and residents under state or federal
32.3 law;

32.4 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
32.5 living arrangements;

32.6 (8) arbitrary increase in charges or fees; or

32.7 (9) removal, tampering with, or deprivation of technology, communication, or electronic
32.8 monitoring devices.

32.9 (d) For purposes of this subdivision, to "retaliate" against an employee includes but is
32.10 not limited to any of the following actions taken or threatened by the facility:

32.11 (1) discharge or transfer;

32.12 (2) demotion or refusal to promote;

32.13 (3) reduction in compensation, benefits, or privileges;

32.14 (4) the imposition of discipline, punishment, or a sanction or penalty; or

32.15 (5) any form of discrimination.

32.16 (e) There is a rebuttable presumption that any action described in paragraph (b) or (c)
32.17 and taken within 90 days of an initial action described in paragraph (a) is retaliatory.

32.18 **EFFECTIVE DATE.** This section is effective August 1, 2019.

32.19 **Sec. 3. [144.6512] ENFORCEMENT OF THE HEALTH CARE BILL OF RIGHTS**
32.20 **BY NURSING HOME RESIDENTS.**

32.21 In addition to the remedies otherwise provided by or available under law, a resident of
32.22 a nursing home, or a legal representative on behalf of a resident, in addition to seeking any
32.23 remedy otherwise available under law, may bring a civil action against a nursing home and
32.24 recover actual damages or \$3,000, whichever is greater, plus costs, including costs of
32.25 investigation, and reasonable attorney fees, and receive other equitable relief as determined
32.26 by the court for violation of section 144.651, subdivisions 14, 20, 26, 30, and 34.

32.27 **EFFECTIVE DATE.** This section is effective August 1, 2019.

33.1 **ARTICLE 3**

33.2 **HOUSING WITH SERVICES ESTABLISHMENTS**

33.3 Section 1. Minnesota Statutes 2018, section 144D.01, subdivision 2a, is amended to read:

33.4 Subd. 2a. ~~Arranged~~ **Affiliated home care provider.** "~~Arranged~~ Affiliated home care
 33.5 provider" means a home care provider licensed under chapter 144A or a home management
 33.6 provider registered under section 144A.482 that provides supportive services to some or all
 33.7 of the residents of a housing with services establishment ~~and that is either the establishment~~
 33.8 ~~itself or another entity with which the establishment has an arrangement~~ under a business
 33.9 relationship or other affiliation with the establishment.

33.10 **EFFECTIVE DATE.** This section is effective July 1, 2020.

33.11 Sec. 2. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
 33.12 read:

33.13 Subd. 2b. **Client.** "Client" means a person to whom an unaffiliated home care provider
 33.14 provides supportive services.

33.15 Sec. 3. Minnesota Statutes 2018, section 144D.01, subdivision 4, is amended to read:

33.16 Subd. 4. **Housing with services establishment or establishment.** (a) "Housing with
 33.17 services establishment" or "establishment" means:

33.18 ~~(1) an establishment providing sleeping accommodations to one or more adult residents,~~
 33.19 ~~at least 80 percent of which are 55 years of age or older, and offering or providing, for a~~
 33.20 ~~fee, one or more regularly scheduled health-related services or two or more regularly~~
 33.21 ~~scheduled supportive services, whether offered or provided directly or by the establishment~~
 33.22 ~~or by another entity arranged for by the establishment, or an affiliated home care provider.~~

33.23 ~~(2) an establishment that registers under section 144D.025.~~

33.24 (b) Housing with services establishment does not include:

33.25 (1) a nursing home licensed under chapter 144A;

33.26 (2) a hospital, ~~certified~~ as defined in section 144.50, subdivision 2;

33.27 (3) a boarding care home, ~~or~~ as defined in Minnesota Rules, part 4655.0010, subpart 3;

33.28 (4) a supervised living facility ~~licensed under sections 144.50 to 144.56,~~ as defined in
 33.29 Minnesota Rules, part 4665.0100, subpart 10;

34.1 ~~(3)~~ (5) a board and lodging establishment licensed under chapter 157 ~~and~~ or 245G, or
 34.2 governed under Minnesota Rules, parts 9520.0500 to 9520.0670, ~~or under chapter 245D or~~
 34.3 ~~245G;~~

34.4 (6) an assisted living establishment, as defined in section 144I.01, subdivision 6, that is
 34.5 not a housing with services establishment;

34.6 ~~(4) a board and lodging~~ (7) any establishment which that serves as a shelter for battered
 34.7 women or other similar purpose;

34.8 ~~(5) a family~~ (8) adult foster care home licensed by the Department of Human Services;

34.9 ~~(6)~~ (9) private homes in which the residents are related by kinship, law, or affinity with
 34.10 the providers of services;

34.11 ~~(7)~~ (10) residential settings for persons with developmental disabilities in which the
 34.12 services are licensed under chapter 245D;

34.13 ~~(8)~~ (11) a home-sharing arrangement such as when an elderly or disabled, including but
 34.14 not limited to arrangements where an older person or person with a disability or single-parent
 34.15 family makes lodging in a private residence available to another person in exchange for
 34.16 services or rent, or both;

34.17 ~~(9)~~ (12) a duly organized condominium, cooperative, common interest community, or
 34.18 owners' association of the foregoing organized under chapter 515B where at least 80 percent
 34.19 of the units that comprise the condominium, cooperative, or common interest community
 34.20 are occupied by individuals who are the owners, members, or shareholders of the units;

34.21 ~~(10)~~ (13) services for persons with developmental disabilities that are provided under a
 34.22 license under chapter 245D; or

34.23 ~~(11)~~ (14) a temporary family health care dwelling as defined in sections 394.307 and
 34.24 462.3593.

34.25 **EFFECTIVE DATE.** This section is effective July 1, 2020.

34.26 Sec. 4. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
 34.27 read:

34.28 Subd. 4a. **Resident.** "Resident" means a person living in a housing with services
 34.29 establishment.

34.30 **EFFECTIVE DATE.** This section is effective July 1, 2020.

35.1 Sec. 5. Minnesota Statutes 2018, section 144D.01, subdivision 5, is amended to read:

35.2 Subd. 5. **Supportive services.** "Supportive services" means ~~help with personal laundry,~~
35.3 ~~handling or assisting with personal funds of residents, or arranging for medical services,~~
35.4 ~~health-related services, social services,;~~

35.5 (1) assistance with laundry, shopping, and household chores;

35.6 (2) housekeeping services;

35.7 (3) provision or assistance with meals or food preparation;

35.8 (4) help with arranging for, or arranging transportation to, medical, social, recreational,
35.9 personal, or social services appointments; or

35.10 (5) provision of social or recreational services.

35.11 Arranging for services does not include making referrals, ~~assisting a resident in contacting~~
35.12 ~~a service provider of the resident's choice,~~ or contacting a service provider in an emergency.

35.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

35.14 Sec. 6. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
35.15 read:

35.16 **Subd. 8. Unaffiliated home care provider.** "Unaffiliated home care provider" means
35.17 a home care provider licensed under chapter 144A or a home management provider registered
35.18 under section 144A.482 that is regularly engaged for a fee in the delivery of one or more
35.19 home care services directly to a client in any setting, including supportive services to a
35.20 resident of a housing with services establishment, provided the home care provider has no
35.21 business relationship or affiliation with the housing with services establishment in which
35.22 the client contracting for or receiving supportive services resides.

35.23 **EFFECTIVE DATE.** This section is effective July 1, 2020.

35.24 Sec. 7. Minnesota Statutes 2018, section 144D.015, is amended to read:

35.25 **144D.015 DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE.**

35.26 For purposes of consistency with terminology commonly used in long-term care insurance
35.27 policies ~~and notwithstanding chapter 144G,~~ a housing with services establishment that is
35.28 registered under section 144D.03 and that holds, or makes arrangements with an individual
35.29 or entity that holds any type of home care license and all other licenses, permits, registrations,
35.30 or other governmental approvals legally required for delivery of the services the establishment

36.1 offers or provides to its residents, constitutes an "assisted living establishment," an "assisted
36.2 living facility," or "assisted living residence."

36.3 **EFFECTIVE DATE.** This section is effective July 1, 2020.

36.4 Sec. 8. Minnesota Statutes 2018, section 144D.02, is amended to read:

36.5 **144D.02 REGISTRATION REQUIRED.**

36.6 No entity may establish, operate, conduct, or maintain a housing with services
36.7 establishment in this state without registering and operating as required in sections 144D.01
36.8 to ~~144D.06~~ 144D.11. After July 1, 2020, a housing with services establishment, either
36.9 directly or through an affiliated home care provider, may provide only supportive services.
36.10 No housing with services establishment may offer or provide services that require an assisted
36.11 living license under chapter 144I.

36.12 **EFFECTIVE DATE.** This section is effective July 1, 2020.

36.13 Sec. 9. Minnesota Statutes 2018, section 144D.04, subdivision 1, is amended to read:

36.14 Subdivision 1. **Contract required.** No housing with services establishment may operate
36.15 in this state unless a written housing with services contract, ~~as defined in subdivision 2,~~
36.16 satisfying the requirements of section 144J.02 is executed between the establishment and
36.17 each resident or resident's representative and unless the establishment operates in accordance
36.18 with the terms of the contract. ~~The resident or the resident's representative shall be given a~~
36.19 ~~complete copy of the contract and all supporting documents and attachments and any changes~~
36.20 ~~whenever changes are made.~~

36.21 **EFFECTIVE DATE.** This section is effective January 1, 2020.

36.22 Sec. 10. Minnesota Statutes 2018, section 144D.05, is amended to read:

36.23 **144D.05 AUTHORITY OF COMMISSIONER.**

36.24 ~~The commissioner shall, upon receipt of information which may indicate the failure of~~
36.25 ~~the housing with services establishment, a resident, a resident's representative, or a service~~
36.26 ~~provider to comply with a legal requirement to which one or more of them may be subject,~~
36.27 ~~make appropriate referrals to other governmental agencies and entities having jurisdiction~~
36.28 ~~over the subject matter. The commissioner may also make referrals to any public or private~~
36.29 ~~agency the commissioner considers available for appropriate assistance to those involved.~~

36.30 The commissioner shall have standing to bring an action for injunctive relief in the
36.31 district court in the district in which an establishment is located to compel the housing with

37.1 ~~services establishment to meet the requirements of this chapter or other requirements of the~~
37.2 ~~state or of any county or local governmental unit to which the establishment is otherwise~~
37.3 ~~subject. Proceedings for securing an injunction may be brought by the commissioner through~~
37.4 ~~the attorney general or through the appropriate county attorney. The sanctions in this section~~
37.5 ~~do not restrict the availability of other sanctions~~ all the authority and power vested under
37.6 chapters 144 and 144I.

37.7 **EFFECTIVE DATE.** This section is effective July 1, 2020.

37.8 Sec. 11. Minnesota Statutes 2018, section 144D.06, is amended to read:

37.9 **144D.06 OTHER LAWS.**

37.10 In addition to registration under this chapter, a housing with services establishment must
37.11 comply with chapter 504B ~~and the provisions of section 325F.72~~, and shall obtain and
37.12 maintain all other licenses, permits, registrations, or other governmental approvals required
37.13 of it. A housing with services establishment is not required to obtain a lodging license under
37.14 chapter 157 and related rules.

37.15 **EFFECTIVE DATE.** This section is effective July 1, 2020.

37.16 Sec. 12. Minnesota Statutes 2018, section 144D.09, is amended to read:

37.17 **144D.09 TERMINATION OF ~~LEASE~~ HOUSING OR SUPPORTIVE SERVICES.**

37.18 Subdivision 1. **Prerequisite to termination of housing or supportive services.** The
37.19 ~~housing with services establishment shall include with notice of termination of lease~~
37.20 ~~information about how to contact the ombudsman for long-term care, including the address~~
37.21 ~~and telephone number along with a statement of how to request problem-solving assistance.~~
37.22 Before involuntarily terminating a resident's housing or supportive services, whether provided
37.23 directly or through an affiliated home care provider, a housing with services establishment
37.24 must explain in detail the reasons for the termination and work with the resident, the resident's
37.25 representative, the resident's family, applicable agencies, and any professionals to identify
37.26 and offer reasonable accommodations, interventions, or alternatives to avoid termination
37.27 of housing or supportive services.

37.28 Subd. 2. **Advance notice required.** A housing with services establishment must provide
37.29 at least 30 days' advance notice to the resident of a termination of housing or supportive
37.30 services, except as provided in subdivision 4.

37.31 Subd. 3. **Content of notice.** The notice required under subdivision 2 must contain, at a
37.32 minimum:

- 38.1 (1) the effective date of termination;
- 38.2 (2) the reason or reasons for termination;
- 38.3 (3) a list of known housing with services establishments and unaffiliated home care
- 38.4 providers in the immediate geographic area;
- 38.5 (4) the name and contact information of a person employed by the housing with services
- 38.6 establishment with whom the resident may discuss the notice of termination;
- 38.7 (5) information about how to contact the ombudsman for long-term care, including the
- 38.8 address and telephone number along with a statement of how to request problem-solving
- 38.9 assistance; and
- 38.10 (6) if the termination is for supportive services, a statement, if applicable, that the notice
- 38.11 of termination of supportive services does not constitute a termination of housing or an
- 38.12 eviction from the resident's housing, and that the resident has the right to remain in the
- 38.13 housing with services establishment if the resident can secure necessary supportive services
- 38.14 from an unaffiliated home care provider.
- 38.15 Subd. 4. **Exception for emergencies.** (a) A housing with services establishment may
- 38.16 provide less than 30 days' notice when:
- 38.17 (1) an emergency relocation is ordered by the resident's physician or an advanced practice
- 38.18 registered nurse; or
- 38.19 (2) the resident needs to be immediately relocated because, due to the resident's behavior,
- 38.20 the resident or another resident or staff member of the housing with services establishment
- 38.21 is at imminent risk of:
- 38.22 (i) death;
- 38.23 (ii) life-threatening harm;
- 38.24 (iii) substantial bodily harm, as defined in section 609.02, subdivision 7a; or
- 38.25 (iv) great bodily harm, as defined in section 609.02, subdivision 8.
- 38.26 (b) A housing with services establishment relocating a resident under this subdivision
- 38.27 must:
- 38.28 (1) ensure that the resident is relocated to a safe and appropriate location; and
- 38.29 (2) immediately notify the person or persons representing the resident, or who are in a
- 38.30 familial or other personal relationship with the resident:
- 38.31 (i) that the resident has been relocated;

39.1 (ii) the reason for the relocation; and

39.2 (iii) the name, address, telephone number, and any other relevant contact information
39.3 of the location to which the resident has been transferred.

39.4 **EFFECTIVE DATE.** This section is effective July 1, 2020.

39.5 Sec. 13. Minnesota Statutes 2018, section 144D.10, is amended to read:

39.6 **144D.10 MANAGER REQUIREMENTS.**

39.7 (a) The person primarily responsible for oversight and management of a housing with
39.8 services establishment, as designated by the owner of the housing with services establishment,
39.9 must obtain at least 30 hours of continuing education every two years of employment as
39.10 the manager in topics relevant to the operations of the housing with services establishment
39.11 and the needs of its tenants. Continuing education earned to maintain a professional license,
39.12 such as nursing home administrator license, nursing license, social worker license, and real
39.13 estate license, can be used to complete this requirement.

39.14 ~~(b) For managers of establishments identified in section 325F.72, this continuing~~
39.15 ~~education must include at least eight hours of documented training on the topics identified~~
39.16 ~~in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of~~
39.17 ~~training on these topics for each 12 months of employment thereafter.~~

39.18 ~~(c) For managers of establishments not covered by section 325F.72, but who provide~~
39.19 ~~assisted living services under chapter 144G, this continuing education must include at least~~
39.20 ~~four hours of documented training on the topics identified in section 144D.065, paragraph~~
39.21 ~~(b), within 160 working hours of hire, and two hours of training on these topics for each 12~~
39.22 ~~months of employment thereafter.~~

39.23 ~~(d)~~ (b) A statement verifying compliance with the continuing education requirement
39.24 must be included in the housing with services establishment's annual registration to the
39.25 commissioner of health. The establishment must maintain records for at least three years
39.26 demonstrating that the person primarily responsible for oversight and management of the
39.27 establishment has attended educational programs as required by this section.

39.28 ~~(e)~~ (c) New managers ~~may~~ must satisfy ~~the initial~~ and document satisfaction of dementia
39.29 training requirements by producing written proof of previously completed required training
39.30 within the past 18 months adopted by the commissioner in rule.

39.31 ~~(f) This section does not apply to an establishment registered under section 144D.025~~
39.32 ~~serving the homeless.~~

40.1 **EFFECTIVE DATE.** This section is effective July 1, 2020.

40.2 Sec. 14. Minnesota Statutes 2018, section 144D.11, is amended to read:

40.3 **144D.11 EMERGENCY PLANNING.**

40.4 (a) Each registered housing with services establishment must meet the following
40.5 requirements:

40.6 (1) have a written emergency disaster plan that contains a plan for evacuation, addresses
40.7 elements of sheltering in-place, identifies temporary relocation sites, and details staff
40.8 assignments in the event of a disaster or an emergency;

40.9 (2) post an emergency disaster plan prominently;

40.10 (3) provide building emergency exit diagrams to all ~~tenants~~ residents upon signing a
40.11 ~~lease~~ contract under section 144J.02;

40.12 (4) post emergency exit diagrams on each floor; and

40.13 (5) have a written policy and procedure regarding missing ~~tenants~~ residents.

40.14 (b) Each registered housing with services establishment must provide emergency and
40.15 disaster training to all staff during the initial staff orientation and annually thereafter and
40.16 must make emergency and disaster training available to all ~~tenants~~ residents annually. Staff
40.17 who have not received emergency and disaster training are allowed to work only when
40.18 trained staff are also working on site.

40.19 (c) Each registered housing with services location must conduct and document a fire
40.20 drill or other emergency drill at least every six months. To the extent possible, drills must
40.21 be coordinated with local fire departments or other community emergency resources.

40.22 **EFFECTIVE DATE.** This section is effective July 1, 2020.

40.23 Sec. 15. **REPEALER.**

40.24 Minnesota Statutes 2018, section 144D.09, is repealed effective August 1, 2019.

40.25 **ARTICLE 4**

40.26 **ASSISTED LIVING LICENSURE**

40.27 Section 1. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

40.28 Subdivision 1. **Background studies required.** The commissioner of health shall contract
40.29 with the commissioner of human services to conduct background studies of:

41.1 (1) individuals providing services ~~which~~ that have direct contact, as defined under section
41.2 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
41.3 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
41.4 home care agencies licensed under chapter 144A; residential care homes licensed under
41.5 chapter 144B, assisted living establishments licensed under chapter 144J, and board and
41.6 lodging establishments that are registered to provide supportive or health supervision services
41.7 under section 157.17;

41.8 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
41.9 services in a nursing home or a home care agency licensed under chapter 144A or a boarding
41.10 care home licensed under sections 144.50 to 144.58. If the individual under study resides
41.11 outside Minnesota, the study must include a check for substantiated findings of maltreatment
41.12 of adults and children in the individual's state of residence when the information is made
41.13 available by that state, and must include a check of the National Crime Information Center
41.14 database;

41.15 (3) beginning July 1, 1999, all other employees in assisted living establishments licensed
41.16 under chapter 144J, nursing homes licensed under chapter 144A, and boarding care homes
41.17 licensed under sections 144.50 to 144.58. A disqualification of an individual in this section
41.18 shall disqualify the individual from positions allowing direct contact or access to patients
41.19 or residents receiving services. "Access" means physical access to a client or the client's
41.20 personal property without continuous, direct supervision as defined in section 245C.02,
41.21 subdivision 8, when the employee's employment responsibilities do not include providing
41.22 direct contact services;

41.23 (4) individuals employed by a supplemental nursing services agency, as defined under
41.24 section 144A.70, who are providing services in health care facilities; and

41.25 (5) controlling persons of a supplemental nursing services agency, as defined under
41.26 section 144A.70.

41.27 If a facility or program is licensed by the Department of Human Services and subject to
41.28 the background study provisions of chapter 245C and is also licensed by the Department
41.29 of Health, the Department of Human Services is solely responsible for the background
41.30 studies of individuals in the jointly licensed programs.

41.31 **EFFECTIVE DATE.** This section is effective July 1, 2020.

42.1 Sec. 2. Minnesota Statutes 2018, section 144.0721, is amended to read:

42.2 **144.0721 ASSESSMENTS OF CARE AND SERVICES TO NURSING HOME**
42.3 **AND ASSISTED LIVING RESIDENTS.**

42.4 Subdivision 1. **Appropriateness and quality.** Until the date of implementation of the
42.5 revised case mix system based on the minimum data set, the commissioner of health shall
42.6 assess the appropriateness and quality of care and services furnished to private paying
42.7 residents in assisted living establishments, nursing homes₂ and boarding care homes that
42.8 are certified for participation in the medical assistance program under United States Code,
42.9 title 42, sections 1396-1396p. These assessments shall be conducted until the date of
42.10 implementation of the revised case mix system with the exception of provisions requiring
42.11 recommendations for changes in the level of care provided to the private paying residents.

42.12 Subd. 2. **Access to data.** With the exception of summary data, data on individuals that
42.13 is collected, maintained, used, or disseminated by the commissioner of health under
42.14 subdivision 1 is private data on individuals and shall not be disclosed to others except:

42.15 (1) under section 13.05;

42.16 (2) under a valid court order;

42.17 (3) to the assisted living establishment, nursing home₂ or boarding care home in which
42.18 the individual resided at the time the assessment was completed;

42.19 (4) to the commissioner of human services; or

42.20 (5) to county home care staff for the purpose of assisting the individual to be discharged
42.21 from a nursing home or boarding care home and returned to the community.

42.22 **EFFECTIVE DATE.** This section is effective July 1, 2020.

42.23 Sec. 3. Minnesota Statutes 2018, section 144.122, is amended to read:

42.24 **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

42.25 (a) The state commissioner of health, by rule, may prescribe procedures and fees for
42.26 filing with the commissioner as prescribed by statute and for the issuance of original and
42.27 renewal permits, licenses, registrations, and certifications issued under authority of the
42.28 commissioner. The expiration dates of the various licenses, permits, registrations, and
42.29 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include
42.30 application and examination fees and a penalty fee for renewal applications submitted after
42.31 the expiration date of the previously issued permit, license, registration, and certification.
42.32 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,

43.1 registrations, and certifications when the application therefor is submitted during the last
 43.2 three months of the permit, license, registration, or certification period. Fees proposed to
 43.3 be prescribed in the rules shall be first approved by the Department of Management and
 43.4 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be
 43.5 in an amount so that the total fees collected by the commissioner will, where practical,
 43.6 approximate the cost to the commissioner in administering the program. All fees collected
 43.7 shall be deposited in the state treasury and credited to the state government special revenue
 43.8 fund unless otherwise specifically appropriated by law for specific purposes.

43.9 (b) The commissioner may charge a fee for voluntary certification of medical laboratories
 43.10 and environmental laboratories, and for environmental and medical laboratory services
 43.11 provided by the department, without complying with paragraph (a) or chapter 14. Fees
 43.12 charged for environment and medical laboratory services provided by the department must
 43.13 be approximately equal to the costs of providing the services.

43.14 (c) The commissioner may develop a schedule of fees for diagnostic evaluations
 43.15 conducted at clinics held by the services for children with disabilities program. All receipts
 43.16 generated by the program are annually appropriated to the commissioner for use in the
 43.17 maternal and child health program.

43.18 (d) The commissioner shall set license fees for hospitals, assisted living establishments,
 43.19 and nursing homes that are not boarding care homes at the following levels:

43.20	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
43.21	Healthcare Organizations (JCAHO) and	
43.22	American Osteopathic Association (AOA)	
43.23	hospitals	
43.24	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
43.25	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
43.26		\$183 plus \$100 per bed between July 1, 2018,
43.27		and June 30, 2020. \$183 plus \$105 per bed
43.28		beginning July 1, 2020.
43.29	<u>Level 1 assisted living establishment</u>	<u>\$.....</u>
43.30	<u>Level 2 assisted living establishment</u>	<u>\$.....</u>
43.31	<u>Level 3 assisted living establishment</u>	<u>\$.....</u>

43.32 The commissioner shall set license fees for outpatient surgical centers, boarding care
 43.33 homes, and supervised living facilities at the following levels:

43.34	Outpatient surgical centers	\$3,712
43.35	Boarding care homes	\$183 plus \$91 per bed
43.36	Supervised living facilities	\$183 plus \$91 per bed.

44.1 Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if
 44.2 received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017,
 44.3 or later.

44.4 (e) Unless prohibited by federal law, the commissioner of health shall charge applicants
 44.5 the following fees to cover the cost of any initial certification surveys required to determine
 44.6 a provider's eligibility to participate in the Medicare or Medicaid program:

44.7	Prospective payment surveys for hospitals	\$	900
44.8	Swing bed surveys for nursing homes	\$	1,200
44.9	Psychiatric hospitals	\$	1,400
44.10	Rural health facilities	\$	1,100
44.11	Portable x-ray providers	\$	500
44.12	Home health agencies	\$	1,800
44.13	Outpatient therapy agencies	\$	800
44.14	End stage renal dialysis providers	\$	2,100
44.15	Independent therapists	\$	800
44.16	Comprehensive rehabilitation outpatient facilities	\$	1,200
44.17	Hospice providers	\$	1,700
44.18	Ambulatory surgical providers	\$	1,800
44.19	Hospitals	\$	4,200
44.20	Other provider categories or additional		Actual surveyor costs: average
44.21	resurveys required to complete initial		surveyor cost x number of hours for
44.22	certification		the survey process.

44.23 These fees shall be submitted at the time of the application for federal certification and
 44.24 shall not be refunded. All fees collected after the date that the imposition of fees is not
 44.25 prohibited by federal law shall be deposited in the state treasury and credited to the state
 44.26 government special revenue fund.

44.27 **EFFECTIVE DATE.** This section is effective July 1, 2020.

44.28 Sec. 4. Minnesota Statutes 2018, section 144A.18, is amended to read:

44.29 **144A.18 ADMINISTRATOR'S LICENSES; PENALTY.**

44.30 No person shall act as a nursing home administrator or assisted living establishment
 44.31 administrator or purport to be a nursing home administrator or assisted living establishment
 44.32 administrator unless that person is licensed by the Board of Examiners for Nursing Home
 44.33 and Assisted Living Establishment Administrators. A violation of this section is a
 44.34 misdemeanor.

45.1 **EFFECTIVE DATE.** This section is effective July 1, 2020.

45.2 Sec. 5. Minnesota Statutes 2018, section 144A.19, subdivision 1, is amended to read:

45.3 Subdivision 1. **Creation; membership.** There is hereby created the Board of Examiners
45.4 for Nursing Home and Assisted Living Establishment Administrators ~~which~~ that shall consist
45.5 of the following members:

45.6 (1) a designee of the commissioner of health who shall be a nonvoting member;

45.7 (2) a designee of the commissioner of human services who shall be a nonvoting member;

45.8 and

45.9 (3) the following members appointed by the governor:

45.10 (i) two members actively engaged in the management, operation, or ownership of
45.11 proprietary nursing homes and two members actively engaged in the management, operation,
45.12 or ownership of assisted living establishments;

45.13 (ii) two members actively engaged in the management or operation of nonprofit nursing
45.14 homes and two members actively engaged in the management or operation of nonprofit
45.15 assisted living establishments;

45.16 (iii) one member actively engaged in the practice of medicine;

45.17 (iv) one member actively engaged in the practice of professional nursing; and

45.18 (v) three public members as defined in section 214.02.

45.19 **EFFECTIVE DATE.** This section is effective July 1, 2020.

45.20 Sec. 6. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

45.21 Subdivision 1. **Criteria.** The Board of Examiners may issue licenses to qualified persons
45.22 as nursing home or assisted living establishment administrators, and shall establish
45.23 qualification criteria for nursing home and assisted living establishment administrators. No
45.24 license shall be issued to a person as a nursing home or assisted living establishment
45.25 administrator unless that person:

45.26 (1) is at least 21 years of age and otherwise suitably qualified;

45.27 (2) has satisfactorily met standards set by the Board of Examiners, which standards shall
45.28 be designed to assure that nursing home and assisted living establishment administrators
45.29 will be individuals who, by training or experience are qualified to serve as nursing home
45.30 or assisted living establishment administrators; and

46.1 (3) has passed an examination approved by the board and designed to test for competence
46.2 in the subject matters referred to in clause (2), or has been approved by the Board of
46.3 Examiners through the development and application of other appropriate techniques.

46.4 **EFFECTIVE DATE.** This section is effective July 1, 2020.

46.5 Sec. 7. Minnesota Statutes 2018, section 144A.21, is amended to read:

46.6 **144A.21 ADMINISTRATOR LICENSES.**

46.7 Subdivision 1. **Transferability.** A nursing home or assisted living establishment
46.8 administrator's license shall not be transferable.

46.9 Subd. 2. **Rules; renewal.** The Board of Examiners by rule shall establish forms and
46.10 procedures for the processing of license renewals. A nursing home or assisted living
46.11 establishment administrator's license may be renewed only in accordance with the standards
46.12 adopted by the Board of Examiners pursuant to section 144A.24.

46.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

46.14 Sec. 8. Minnesota Statutes 2018, section 144A.23, is amended to read:

46.15 **144A.23 JURISDICTION OF BOARD.**

46.16 Except as provided in section 144A.04, subdivision 5, the board of examiners shall have
46.17 exclusive authority to determine the qualifications, skill and fitness required of any person
46.18 to serve as an administrator of a nursing home or assisted living establishment. The holder
46.19 of a license shall be deemed fully qualified to serve as the administrator of a nursing home
46.20 or assisted living establishment.

46.21 **EFFECTIVE DATE.** This section is effective July 1, 2020.

46.22 Sec. 9. Minnesota Statutes 2018, section 144A.24, is amended to read:

46.23 **144A.24 DUTIES OF THE BOARD.**

46.24 The Board of Examiners shall:

46.25 (1) develop and enforce standards for nursing home and assisted living establishment
46.26 administrator licensing, which standards shall be designed to assure that nursing home
46.27 administrators will be individuals of good character who, by training or experience, are
46.28 suitably qualified to serve as nursing home or assisted living establishment administrators;

46.29 (2) develop appropriate techniques, including examinations and investigations, for
46.30 determining whether applicants and licensees meet the board's standards;

47.1 (3) issue licenses and permits to those individuals who are found to meet the board's
47.2 standards;

47.3 (4) establish and implement procedures designed to assure that individuals licensed as
47.4 nursing home and assisted living establishment administrators will comply with the board's
47.5 standards;

47.6 (5) receive and investigate complaints and take appropriate action consistent with chapter
47.7 214, to revoke or suspend the license or permit of a nursing home or assisted living
47.8 establishment administrator or acting administrator who fails to comply with sections
47.9 144A.18 to 144A.27 or the board's standards;

47.10 (6) conduct a continuing study and investigation of nursing homes, and the administrators
47.11 of nursing homes and assisted living establishments within the state, with a view to the
47.12 improvement of the standards imposed for the licensing of administrators and improvement
47.13 of the procedures and methods used for enforcement of the board's standards; and

47.14 (7) approve or conduct courses of instruction or training designed to prepare individuals
47.15 for licensing in accordance with the board's standards. Courses designed to meet license
47.16 renewal requirements shall be designed solely to improve professional skills and shall not
47.17 include classroom attendance requirements exceeding 50 hours per year. The board may
47.18 approve courses conducted within or without this state.

47.19 **EFFECTIVE DATE.** This section is effective July 1, 2020.

47.20 Sec. 10. Minnesota Statutes 2018, section 144A.251, is amended to read:

47.21 **144A.251 MANDATORY PROCEEDINGS.**

47.22 In addition to its discretionary authority to initiate proceedings under section 144A.24
47.23 and chapter 214, the Board of Examiners shall initiate proceedings to suspend or revoke a
47.24 nursing home or assisted living establishment administrator license or shall refuse to renew
47.25 a license if within the preceding two-year period the administrator was employed at a nursing
47.26 home ~~which~~ or assisted living establishment that during the period of employment incurred
47.27 the following number of uncorrected violations, which violations were in the jurisdiction
47.28 and control of the administrator and for which a fine was assessed and allowed to be
47.29 recovered:

47.30 (1) two or more uncorrected violations which created an imminent risk of harm to a
47.31 nursing home resident; or

47.32 (2) ten or more uncorrected violations of any nature.

48.1 **EFFECTIVE DATE.** This section is effective July 1, 2020.

48.2 Sec. 11. Minnesota Statutes 2018, section 144A.2511, is amended to read:

48.3 **144A.2511 COSTS; PENALTIES.**

48.4 If the Board of Examiners has initiated proceedings under section 144A.24 or 144A.251
48.5 or chapter 214, and upon completion of the proceedings has found that a nursing home or
48.6 assisted living establishment administrator has violated a provision or provisions of sections
48.7 144A.18 to 144A.27, it may impose a civil penalty not exceeding \$10,000 for each separate
48.8 violation, with all violations related to a single event or incident considered as one violation.
48.9 The amount of the civil penalty shall be fixed so as to deprive the nursing home or assisted
48.10 living establishment administrator of any economic advantage gained by reason of the
48.11 violation charged or to reimburse the board for the cost of the investigation and proceeding.
48.12 For purposes of this section, the cost of the investigation and proceeding may include, but
48.13 is not limited to, fees paid for services provided by the Office of Administrative Hearings,
48.14 legal and investigative services provided by the Office of the Attorney General, court
48.15 reporters, witnesses, and reproduction of records.

48.16 **EFFECTIVE DATE.** This section is effective July 1, 2020.

48.17 Sec. 12. Minnesota Statutes 2018, section 144A.26, is amended to read:

48.18 **144A.26 RECIPROCITY WITH OTHER STATES.**

48.19 The board of examiners may issue a nursing home or assisted living establishment
48.20 administrator's license, without examination, to any person who holds a current license as
48.21 a nursing home or assisted living establishment administrator from another jurisdiction if
48.22 the board finds that the standards for licensure in the other jurisdiction are at least the
48.23 substantial equivalent of those prevailing in this state and that the applicant is otherwise
48.24 qualified.

48.25 **EFFECTIVE DATE.** This section is effective July 1, 2020.

48.26 Sec. 13. Minnesota Statutes 2018, section 144A.27, is amended to read:

48.27 **144A.27 ACTING ADMINISTRATORS.**

48.28 If a licensed nursing home or assisted living establishment administrator is removed
48.29 from the position by death or other unexpected cause, the controlling persons of the nursing
48.30 home suffering the removal may designate an acting nursing home or assisted living

49.1 establishment administrator who shall secure an acting administrator's permit within 30
49.2 days of appointment as the acting administrator.

49.3 **EFFECTIVE DATE.** This section is effective July 1, 2020.

49.4 Sec. 14. **[144L.01] DEFINITIONS.**

49.5 Subdivision 1. **Administrator.** "Administrator" means a person who administers,
49.6 manages, supervises, or is in general administrative charge of an assisted living establishment,
49.7 whether or not the individual has an ownership interest in the assisted living establishment,
49.8 and whether or not the person's functions and duties are shared with one or more individuals,
49.9 and who is licensed under chapter 144A.

49.10 Subd. 2. **Adult.** "Adult" means a person who is at least 18 years of age.

49.11 Subd. 3. **Affiliated home care provider.** "Affiliated home care provider" means a home
49.12 care provider licensed under chapter 144A that provides home care services to residents of
49.13 an assisted living establishment under a business relationship or other affiliation with an
49.14 assisted living establishment.

49.15 Subd. 4. **Applicant.** "Applicant" means the assisted living establishment.

49.16 Subd. 5. **Assisted living establishment.** (a) "Assisted living establishment" means an
49.17 entity that, for a fee, provides sleeping accommodations to one or more adults and offers
49.18 or provides, directly or through an affiliated home care provider, home care services to any
49.19 resident in the establishment.

49.20 (b) Assisted living establishment does not include:

49.21 (1) shelters, transitional housing, or any other residential units serving exclusively or
49.22 primarily homeless individuals, as defined in section 116L.361;

49.23 (2) a housing with services establishment registered under chapter 144D;

49.24 (3) a hospital, as defined in section 144.50, subdivision 2;

49.25 (4) a boarding care home, as defined in Minnesota Rules, part 4655.0100, subpart 3;

49.26 (5) a supervised living facility, as defined in Minnesota Rules, part 4665.0100, subpart
49.27 10;

49.28 (6) a board and lodging establishment licensed under chapter 157 or 245G, or governed
49.29 under Minnesota Rules, parts 9520.0500 to 9520.0670;

49.30 (7) any establishment that serves as a shelter for battered women or other similar purpose;

- 50.1 (8) adult foster care licensed by the Department of Human Services;
- 50.2 (9) private homes in which the residents are related by kinship, law, or affinity to the
50.3 providers of services;
- 50.4 (10) residential settings for persons with developmental disabilities in which the services
50.5 are licensed under chapter 245D;
- 50.6 (11) a home-sharing arrangement, including but not limited to arrangements where an
50.7 older person, person with a disability, or single-parent family makes lodging in a private
50.8 residence available to another person in exchange for services or rent, or both;
- 50.9 (12) a condominium, cooperative, common interest community, or owners' association
50.10 organized under chapter 515B where at least 80 percent of the units that comprise the
50.11 condominium, cooperative, common interest community, or association are occupied by
50.12 individuals who are the owners, members, or shareholders of the units; and
- 50.13 (13) services for persons with developmental disabilities that are provided under chapter
50.14 245D; or
- 50.15 (14) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.
- 50.16 **Subd. 6. Basic home care services.** "Basic home care services" means:
- 50.17 (1) the services described in section 144A.471, subdivision 6; and
- 50.18 (2) any of the following services:
- 50.19 (i) daily or periodic monitoring or supervision of the resident's functioning and needs
50.20 to ensure the resident's well-being;
- 50.21 (ii) provision of meals;
- 50.22 (iii) help with arranging for medical, social, recreational, personal, or social service
50.23 appointments, or arranging transportation for medical, social, recreational, personal, or
50.24 social service appointments; or
- 50.25 (iv) provision of social or recreational services.
- 50.26 **Subd. 7. Commissioner.** "Commissioner" means the commissioner of health.
- 50.27 **Subd. 8. Comprehensive home care services.** "Comprehensive home care services"
50.28 means the services described in section 144A.471, subdivision 7.
- 50.29 **Subd. 9. Controlling person.** (a) "Controlling person" means any business entity, officer,
50.30 assisted living establishment administrator, or director whose responsibilities include the

51.1 direction of the management or policies of an assisted living establishment. Controlling
51.2 person also means any person who, directly or indirectly, beneficially owns any interest in:

51.3 (1) any corporation, partnership, or other business association that is a controlling person
51.4 of an assisted living establishment;

51.5 (2) the land on which an assisted living establishment is located;

51.6 (3) the structure in which an assisted living establishment is located;

51.7 (4) any mortgage, contract for deed, or other obligation secured in whole or part by the
51.8 land or structure comprising an assisted living establishment; or

51.9 (5) any lease or sublease of the land, structure, or facilities comprising an assisted living
51.10 establishment.

51.11 (b) Controlling person does not include:

51.12 (1) a bank, savings bank, trust company, savings association, credit union, industrial
51.13 loan and thrift company, investment banking firm, or insurance company, unless the entity
51.14 directly or through a subsidiary operates an assisted living establishment;

51.15 (2) a public or government entity;

51.16 (3) an individual state official or state employee, or a member or employee of the
51.17 governing body of a political subdivision of the state that operates one or more assisted
51.18 living establishments, unless the individual is also an officer or director of an assisted living
51.19 establishment, receives any remuneration from an assisted living establishment, or owns
51.20 any of the beneficial interests not excluded in this subdivision;

51.21 (4) a natural person who is a member of a tax-exempt organization under section 290.05,
51.22 subdivision 2, unless the individual is also an officer or director of an assisted living
51.23 establishment or owns any of the beneficial interests not excluded in this subdivision; and

51.24 (5) a natural person who owns less than five percent of the outstanding common shares
51.25 of a corporation:

51.26 (i) whose securities are exempt as provided in section 80A.45, clause (6); or

51.27 (ii) whose transactions are exempt as provided in section 80A.46, clause (7).

51.28 Subd. 10. **Designated representative.** "Designated representative" means:

51.29 (1) a court-appointed guardian;

51.30 (2) a conservator;

52.1 (3) an attorney-in-fact;

52.2 (4) a health care agent, as defined in section 145C.01, subdivision 2; or

52.3 (5) a person chosen by the resident and identified in the resident's records on file with
52.4 the assisted living establishment.

52.5 Subd. 11. **Home care service agreement or service agreement.** "Home care service
52.6 agreement" or "service agreement" means the written agreement described in section
52.7 144A.43, subdivision 27, between a private client or a private client's representative and an
52.8 unaffiliated home care provider delineating the home care services that will be provided to
52.9 the private client for a fee.

52.10 Subd. 12. **Home care services.** "Home care services" means either basic or
52.11 comprehensive home care services.

52.12 Subd. 13. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

52.13 Subd. 14. **Plan for care and services.** "Plan for care and services" means the
52.14 individualized written record documenting the results of the individualized care and service
52.15 planning process based on the assessments described in section 144I.13, subdivision 3.

52.16 Subd. 15. **Resident.** "Resident" means a person living in an assisted living establishment.

52.17 Subd. 16. **Unaffiliated home care provider.** "Unaffiliated home care provider" means
52.18 an individual, organization, association, corporation, or other entity that, for a fee:

52.19 (1) has a valid current temporary license or license issued under chapter 144A, or is
52.20 exempt from licensure;

52.21 (2) is regularly engaged in the delivery of one or more home care services directly to a
52.22 resident in any residential setting; and

52.23 (3) has no business relationship or affiliation with the assisted living establishment where
52.24 the resident receiving services lives.

52.25 **EFFECTIVE DATE.** This section is effective July 1, 2020.

52.26 Sec. 15. **[144I.02] LICENSURE; PENALTY.**

52.27 Subdivision 1. **Licensing levels.** There shall be three levels of licensure of assisted living
52.28 establishments. Level 1 licensure is required for all assisted living establishments that offer
52.29 basic home care services. Level 2 licensure is required for all assisted living establishments
52.30 that offer comprehensive home care services. Level 3 licensure is required for all Level 1
52.31 or Level 2 licensed assisted living establishments that offer, provide, advertise, or hold

53.1 themselves out by whatever name or descriptor as offering or providing special care for
53.2 persons with cognitive impairments, including Alzheimer's disease or other forms of
53.3 dementia.

53.4 Subd. 2. **License required.** (a) No entity may open, operate, maintain, or advertise itself
53.5 as an assisted living establishment unless the entity is licensed as a Level 1 or Level 2
53.6 assisted living establishment under this chapter. The commissioner may license an entity
53.7 as an assisted living establishment if the entity meets the criteria established under this
53.8 chapter, and any adopted rules.

53.9 (b) No entity may open, operate, maintain, or advertise itself as an assisted living
53.10 establishment that offers, by any name, memory care, dementia care, or special care for
53.11 persons with cognitive impairments, including Alzheimer's disease or other forms of
53.12 dementia, unless the entity is licensed as a Level 3 assisted living establishment under this
53.13 chapter and any adopted rules.

53.14 Subd. 3. **Contents of license.** A license must:

53.15 (1) include the address of the entity to be licensed and the legal property description;

53.16 (2) specify the location and square footage of the floor space constituting the entity;

53.17 (3) incorporate by reference the plans and specifications of the entity, which must be
53.18 kept on file with the commissioner;

53.19 (4) specify the level or levels of care and services that the entity is licensed to provide;
53.20 and

53.21 (5) state any conditions or limitations imposed on the entity according to the rules of
53.22 the commissioner.

53.23 Subd. 4. **Home care provider license required.** (a) No assisted living establishment
53.24 or affiliated home care provider may offer or provide home care services to a resident unless
53.25 the establishment or provider has a valid home care provider license under chapter 144A.

53.26 (b) Assisted living establishments providing home care services directly and affiliated
53.27 home care providers must comply with sections 144A.471 to 144A.483.

53.28 Subd. 5. **Violations; penalty.** (a) Operating an assisted living establishment without a
53.29 license is a misdemeanor punishable by a fine imposed by the commissioner by adopted
53.30 rule.

53.31 (b) A person or entity that, before obtaining a license, advertises an assisted living
53.32 establishment that is required to be licensed under this chapter is guilty of a misdemeanor.

54.1 (c) A controlling person of an assisted living establishment in violation of this section
54.2 is guilty of a misdemeanor. The provisions of this subdivision shall not apply to any
54.3 controlling person who had no legal authority to affect or change decisions related to the
54.4 operation of the assisted living establishment.

54.5 (d) The sanctions in this section do not restrict other available sanctions.

54.6 **EFFECTIVE DATE.** This section is effective July 1, 2020.

54.7 **Sec. 16. [144I.03] LICENSE APPLICATION.**

54.8 Subdivision 1. **Form; requirements.** (a) The commissioner shall establish forms and
54.9 procedures for processing assisted living establishment license applications.

54.10 (b) An application for an assisted living establishment license must include the following
54.11 information for the assisted living establishment:

54.12 (1) the business name, street address, mailing address if different from the street address,
54.13 and legal property description of the establishment;

54.14 (2) the legal name or designation of the establishment and any affiliated home care
54.15 provider;

54.16 (3) the name, mailing address, which may not be a post office box, e-mail address, and
54.17 telephone number of:

54.18 (i) all owners, controlling persons, and managerial employees of the assisted living
54.19 establishment;

54.20 (ii) any affiliated home care provider;

54.21 (iii) all officers and members of the governing body, or comparable person for
54.22 partnerships, limited liability corporations, or other legal designation for the business
54.23 organizational structure of the assisted living establishment;

54.24 (iv) the managing agent of the establishment, if different from the owner or owners; and

54.25 (v) the on-site manager of the establishment;

54.26 (4) disclosure of:

54.27 (i) whether any owner, controlling party, managing agent, on-site manager, or controlling
54.28 person of the assisted living establishment or any affiliated home care provider has ever
54.29 been convicted of a crime or found civilly liable for an offense involving moral turpitude,
54.30 including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion,
54.31 conspiracy to defraud, or any other similar offense or violation, or any violation of section

55.1 626.557 or any other similar law in any other state, or any violation of a federal or state law
55.2 or regulation in connection with activities involving any consumer fraud, false advertising,
55.3 deceptive trade practices, or similar consumer protection law;

55.4 (ii) any judgments, private or public litigation, tax liens, written complaints, administrative
55.5 actions, or investigations by any government agency against the applicant or the applicant's
55.6 affiliated home care provider, or officer, director or manager of, or shareholder owning
55.7 more than five percent interest in the applicant or the applicant's affiliated home care provider
55.8 that are unresolved or otherwise filed or commenced within the preceding ten years;

55.9 (iii) whether the applicant or the applicant's affiliated home care provider, or any person
55.10 employed by the applicant or the applicant's affiliated home care provider, has a record of
55.11 defaulting in the payment of money collected for others, including the discharge of debts
55.12 through bankruptcy proceedings; and

55.13 (iv) whether the applicant or the applicant's home care provider's license or registration
55.14 in this or any other state to provide the services for which the applicant seeks to be licensed
55.15 has ever been revoked or suspended;

55.16 (5) a copy of the architectural and engineering plans and specifications of the facility as
55.17 prepared and certified by an architect or engineer registered to practice in this state;

55.18 (6) a showing of proof that the establishment is in compliance with the workers'
55.19 compensation insurance coverage requirement, as provided under section 176.82;

55.20 (7) a showing of proof that the establishment has sufficient liability coverage;

55.21 (8) for applicants for a Level 3 license:

55.22 (i) verification that the establishment will comply with the requirements of section
55.23 325F.72; and

55.24 (ii) evidence satisfactory to the commissioner that the assisted living establishment has
55.25 met the requirements in rules adopted by the commissioner for qualifications and training
55.26 of administrators and staff of Level 3 licensed establishments;

55.27 (9) if applicable, evidence satisfactory to the commissioner that the affiliated home care
55.28 provider has a current license, as required under section 144A.471, subdivision 1, and meets
55.29 all applicable requirements under statute and rule to provide home care services to residents;
55.30 and

55.31 (10) any other relevant information the commissioner determines is necessary to properly
55.32 evaluate an application for license.

56.1 (c) An application for any assisted living license must be signed by the owner or owners,
56.2 or an authorized agent of the owner or owners. An application submitted on behalf of a
56.3 corporation, association, or governmental unit or instrumentality must be signed by at least
56.4 two officers or managing agents of that entity.

56.5 (d) If the owner of the assisted living establishment is a corporation, an authorized agent
56.6 of the corporation must submit copies of articles of incorporation and bylaws and any
56.7 amendments as they occur, together with the names and addresses of the assisted living
56.8 establishment's officers and directors. If the assisted living establishment is owned by a
56.9 foreign corporation, an authorized agent must furnish the commissioner with a copy of the
56.10 foreign corporation's certificate of authority to do business in this state.

56.11 Subd. 2. **Agents.** (a) An application for any assisted living establishment license or for
56.12 renewal of an assisted living establishment license must specify one or more controlling
56.13 persons or managerial employees as agents:

56.14 (1) who shall be responsible for dealing with the commissioner on all requirements of
56.15 this chapter and chapter 144J; and

56.16 (2) on whom personal service of all notices and orders shall be made, and who shall be
56.17 authorized to accept service on behalf of all of the controlling persons of the assisted living
56.18 establishment, in proceedings under this chapter.

56.19 (b) Notwithstanding any law to the contrary, personal service on the designated person
56.20 or persons named in the application is deemed to be service on all of the controlling persons
56.21 or managerial employees of the assisted living establishment, and it is not a defense to any
56.22 action arising under this chapter, that personal service was not made on each controlling
56.23 person or managerial employee of the assisted living establishment. The designation of one
56.24 or more controlling persons or managerial employees under this subdivision shall not affect
56.25 the legal responsibility of any other controlling person or managerial employee under this
56.26 chapter or chapter 144J.

56.27 **EFFECTIVE DATE.** This section is effective July 1, 2020.

56.28 Sec. 17. **[144I.04] LICENSE RENEWALS.**

56.29 Unless the assisted living establishment license expires or is suspended or revoked under
56.30 section 144I.05, a license shall remain effective for a period of one year from the date of
56.31 issuance. The commissioner must establish forms and procedures for the processing of
56.32 license renewals. The commissioner must approve a license renewal application if the

57.1 assisted living establishment continues to satisfy the requirements, standards, and conditions
57.2 of this chapter and adopted rules.

57.3 **EFFECTIVE DATE.** This section is effective July 1, 2020.

57.4 Sec. 18. **[144I.05] LICENSE SUSPENSION OR REVOCATION; HEARING;**
57.5 **RELICENSING.**

57.6 Subdivision 1. **Optional proceedings.** The commissioner may institute proceedings to
57.7 suspend or revoke any assisted living establishment's license or may refuse to grant or renew
57.8 an assisted living establishment's license if any action by a controlling person or employee
57.9 of the assisted living establishment:

57.10 (1) violates any of the provisions of this chapter, or adopted rules;

57.11 (2) permits, aids, or abets the commission of any illegal act;

57.12 (3) performs any act contrary to the welfare of a resident of the assisted living
57.13 establishment; or

57.14 (4) obtains, or attempts to obtain, a license by fraudulent means or misrepresentation.

57.15 Subd. 2. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
57.16 within 60 days of notification to suspend or revoke an assisted living establishment's license
57.17 or must refuse to renew an assisted living establishment's license if within the preceding
57.18 two years the assisted living establishment has incurred the following number of uncorrected
57.19 or repeated violations:

57.20 (1) two or more uncorrected violations or one or more repeated violations that created
57.21 an imminent risk to direct resident care or safety; or

57.22 (2) four or more uncorrected violations or two or more repeated violations of any nature
57.23 for which the fines are in the four highest daily fine categories prescribed in rule.

57.24 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,
57.25 or refuse to renew an assisted living establishment's license if the establishment corrects
57.26 the violation.

57.27 Subd. 3. **Notice to residents.** (a) Within five working days after proceedings are initiated
57.28 by the commissioner to revoke or suspend an assisted living establishment's license, or a
57.29 decision by the commissioner not to renew an assisted living establishment's license, the
57.30 controlling person of the assisted living establishment or a designee must provide to the
57.31 commissioner and the ombudsman for long-term care the names of residents and the names
57.32 and addresses of the residents' guardians, designated representatives, and family contacts.

58.1 (b) The controlling person or designees of the assisted living establishment must provide
58.2 updated information each month until the proceeding is concluded. If the controlling person
58.3 or designee of the assisted living establishment fails to provide the information within this
58.4 time, the assisted living establishment is subject to the issuance of:

58.5 (1) a correction order; and

58.6 (2) a penalty assessment by the commissioner in rule.

58.7 (c) Notwithstanding section 144I.08, any correction order issued under this subdivision
58.8 must require that the assisted living establishment immediately comply with the request for
58.9 information and that, as of the date of the issuance of the correction order, the establishment
58.10 shall forfeit to the state a \$500 fine the first day of noncompliance and an increase in the
58.11 \$500 fine by \$100 increments for each day the noncompliance continues.

58.12 (d) Information provided under this subdivision may be used by the commissioner or
58.13 the ombudsman for long-term care only for the purpose of providing affected consumers
58.14 information about the status of the proceedings.

58.15 (e) Within ten working days after the commissioner initiates proceedings to revoke,
58.16 suspend, or not renew an assisted living establishment license, the commissioner must send
58.17 a written notice of the action and the process involved to each resident of the assisted living
58.18 establishment and the resident's designated representative or, if there is no designated
58.19 representative and if known, a family member or interested person.

58.20 (f) The commissioner shall provide the ombudsman for long-term care with monthly
58.21 information on the department's actions and the status of the proceedings.

58.22 Subd. 4. **Hearing.** An assisted living establishment license may not be suspended or
58.23 revoked, and renewal may not be denied, without a hearing held as a contested case hearing
58.24 under chapter 14. The hearing must commence within 60 days after the proceedings are
58.25 initiated. If the controlling person of the assisted living establishment designated under
58.26 section 144I.03, subdivision 2, as an agent to accept service on behalf of all of the controlling
58.27 persons of the assisted living establishment has been notified by the commissioner that the
58.28 establishment will not receive an initial license or that a license renewal has been denied,
58.29 the controlling person or a legal representative on behalf of the assisted living establishment
58.30 may request and receive a hearing on the denial. This hearing shall be held as a contested
58.31 case under chapter 14.

58.32 Subd. 5. **Mandatory revocation.** Notwithstanding the provisions of subdivision 4, the
58.33 commissioner must revoke an assisted living license if a controlling person of the assisted

59.1 living establishment is convicted of a felony or gross misdemeanor that relates to operation
59.2 of the assisted living establishment or directly affects resident safety or care. The
59.3 commissioner shall notify the assisted living establishment and the Office of Ombudsman
59.4 for Long-Term Care 30 days in advance of the date of revocation.

59.5 Subd. 6. **Relicensing.** If an assisted living establishment license is revoked, a new
59.6 application for license may be considered by the commissioner when the conditions upon
59.7 which the revocation was based have been corrected and satisfactory evidence of this fact
59.8 has been furnished to the commissioner. A new license may be granted after an inspection
59.9 has been made and the facility has been found to comply with all provisions of this chapter
59.10 and chapter 144J and adopted rules.

59.11 **EFFECTIVE DATE.** This section is effective July 1, 2020.

59.12 Sec. 19. **[144I.06] REGULATORY POWERS.**

59.13 (a) With the exception of the Department of Public Safety, which has the exclusive
59.14 jurisdiction to enforce state fire and safety standards, the commissioner is the exclusive
59.15 state agency charged with the responsibility and duty of inspecting assisted living
59.16 establishments required to be licensed under this chapter and for enforcing adopted rules.
59.17 The commissioner has all the powers vested and all the duties assigned with respect to
59.18 assisted living establishments as the commissioner has with respect to nursing homes under
59.19 sections 144A.10, subdivisions 1 to 6, 6d, 6e, 7, 8, 9, 10, and 17; and 144A.11.

59.20 (b) The commissioner may request and must be given access to relevant information,
59.21 records, incident reports, or other documents in the possession of a licensed assisted living
59.22 establishment if the commissioner considers them necessary for the discharge of
59.23 responsibilities. For the purposes of inspections and securing information to determine
59.24 compliance with licensure laws and rules, the commissioner need not present a release,
59.25 waiver, or consent of the individual. The identities of patients or residents must be kept
59.26 private as defined in section 13.02, subdivision 12.

59.27 **EFFECTIVE DATE.** This section is effective July 1, 2020.

59.28 Sec. 20. **[144I.07] FEES AND FINES.**

59.29 (a) Each application for a license and each renewal application to operate an assisted
59.30 living establishment must be accompanied by a fee to be prescribed by rule by the
59.31 commissioner as provided in section 144.122. No fee shall be refunded. In any assisted

60.1 living establishment where home care services are delivered through an affiliated home
60.2 care provider, the fee will be applied to the assisted living establishment license only.

60.3 (b) The commissioner shall adopt rules to establish a schedule of fines for violations of
60.4 this chapter and any applicable rules.

60.5 **EFFECTIVE DATE.** This section is effective July 1, 2020.

60.6 Sec. 21. **[144I.08] INJUNCTIVE RELIEF; SUBPOENAS.**

60.7 Subdivision 1. **Injunctive relief.** In addition to any other remedy provided by law, the
60.8 commissioner may bring an action in district court to enjoin a person who is involved in
60.9 the management, operation, or control of an assisted living establishment, or an employee
60.10 of an assisted living establishment, from illegally engaging in activities regulated by this
60.11 chapter and chapter 144J. A temporary restraining order may be granted by the court in the
60.12 proceeding if continued activity by the controlling person or employee of the assisted living
60.13 establishment would create an imminent risk of harm to a resident of the assisted living
60.14 establishment.

60.15 Subd. 2. **Subpoenas.** In all matters pending before the commissioner under this chapter,
60.16 the commissioner shall have the power to issue subpoenas and compel the attendance of
60.17 witnesses and the production of all necessary papers, books, records, documents, and other
60.18 evidentiary material. Any person failing or refusing to appear or testify regarding any matter
60.19 about which that person may be lawfully questioned or to produce any papers, books,
60.20 records, documents, or evidentiary materials in the matter to be heard, after having been
60.21 required by order or subpoena of the commissioner to do so, may, upon application by the
60.22 commissioner to the district court in any district, be ordered by the court to comply therewith.
60.23 The commissioner may issue subpoenas and administer oaths to witnesses, or take their
60.24 affirmation. Depositions may be taken within or without the state in the manner provided
60.25 by law for the taking of depositions in civil actions. A subpoena or other process or paper
60.26 may be served upon any named person anywhere within the state by any officer authorized
60.27 to serve subpoenas in civil actions, with the same fees and mileage and in the same manner
60.28 as prescribed by law for process issued by the district court of this state. Fees and mileage
60.29 and other costs of persons subpoenaed by the commissioner shall be paid in the same manner
60.30 as for proceedings in district court.

60.31 **EFFECTIVE DATE.** This section is effective July 1, 2020.

61.1 Sec. 22. **[144I.09] TRANSFER OF INTERESTS.**

61.2 **Subdivision 1. Notice; expiration of license.** Any controlling person who makes any
61.3 transfer of a beneficial interest in any assisted living establishment must notify the
61.4 commissioner of the transfer within 14 days of its occurrence. The notification must identify
61.5 by name and address the transferor and transferee and must specify the nature and amount
61.6 of the transferred interest. The commissioner upon determining that the transferred beneficial
61.7 interest exceeds ten percent of the total beneficial interest in the assisted living establishment,
61.8 the structure in which the facility is located, or the land upon which the structure is located
61.9 may require that the license of the assisted living establishment expire 90 days after the day
61.10 of transfer. The commissioner upon determining that the transferred beneficial interest
61.11 exceeds 50 percent of the total beneficial interest in the establishment, the structure in which
61.12 the facility is located, or the land upon which the structure is located must require that the
61.13 license of the assisted living establishment expire 90 days after the date of transfer. The
61.14 commissioner must notify the assisted living establishment by certified mail of the expiration
61.15 of the license at least 60 days prior to the date of expiration.

61.16 **Subd. 2. Relicensure.** The commissioner shall prescribe procedures for relicensure under
61.17 this section. The commissioner shall relicense the assisted living establishment if the
61.18 establishment satisfies the requirements of this chapter and chapter 144J. An assisted living
61.19 establishment must not be relicensed by the commissioner if at the time of transfer there
61.20 are any uncorrected violations. The commissioner may temporarily waive correction of one
61.21 or more violations if the commissioner determines that:

61.22 (1) temporary noncorrection of the violation will not create an imminent risk of harm
61.23 to any assisted living establishment resident; and

61.24 (2) a controlling person of the assisted living establishment on behalf of all other
61.25 controlling persons:

61.26 (i) has entered into a contract to obtain the materials or labor necessary to correct the
61.27 violation, but the supplier or other contractor has failed to perform the terms of the contract
61.28 and the inability of the assisted living establishment to correct the violation is due solely to
61.29 that failure; or

61.30 (ii) is otherwise making a diligent good faith effort to correct the violation.

61.31 **EFFECTIVE DATE.** This section is effective July 1, 2020.

62.1 **Sec. 23. [144I.10] ASSISTED LIVING ESTABLISHMENT ADMINISTRATORS.**

62.2 Each assisted living establishment must employ an administrator who must be licensed
62.3 or permitted as an assisted living establishment administrator by the Board of Examiners
62.4 for Nursing Home and Assisted Living Establishment Administrators, as provided under
62.5 section 144A.18. The assisted living establishment may share the services of a licensed
62.6 administrator. The administrator must maintain a sufficient on-site presence in the assisted
62.7 living establishment to effectively manage the establishment in compliance with applicable
62.8 statutes, rules, and regulations. The administrator must establish procedures and delegate
62.9 authority for on-site operations in the administrator's absence, but is ultimately responsible
62.10 for the management of the assisted living establishment. Each assisted living establishment
62.11 must have posted at all times the name of the administrator and the name of the person in
62.12 charge on the premises in the absence of the licensed administrator.

62.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

62.14 **Sec. 24. [144I.11] ADMINISTRATOR OR MANAGERIAL EMPLOYEE**
62.15 **RESTRICTIONS.**

62.16 Subdivision 1. **Restrictions.** An assisted living establishment may not employ as an
62.17 administrator or managerial employee any person who was an administrator or managerial
62.18 employee of a nursing home or another assisted living establishment during any period of
62.19 time in the previous two-year period:

62.20 (1) during which time of employment that nursing home or other assisted living
62.21 establishment incurred the following number of uncorrected violations:

62.22 (i) two or more uncorrected violations or one or more repeated violations that created
62.23 an imminent risk to direct resident care or safety; or

62.24 (ii) four or more uncorrected violations or two or more repeated violations of any nature
62.25 for which the fines are in the four highest daily fine categories prescribed in rule; or

62.26 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates
62.27 to the operation of the nursing home or assisted living establishment, or directly affects
62.28 resident safety or care.

62.29 Subd. 2. **Exception.** The provisions of subdivision 1 do not apply to any violations
62.30 incurred that were outside the jurisdiction and control of the managerial employee or the
62.31 administrator.

62.32 **EFFECTIVE DATE.** This section is effective July 1, 2020.

63.1 Sec. 25. **[144I.12] CONTROLLING PERSON RESTRICTIONS.**

63.2 **Subdivision 1. Restrictions.** The controlling person of any assisted living establishment
63.3 may not include any person who was a controlling person of a nursing home or another
63.4 assisted living establishment during any period of time in the previous two-year period:

63.5 (1) during which time of control that nursing home or other assisted living establishment
63.6 incurred the following number of uncorrected or repeated violations:

63.7 (i) two or more uncorrected violations or one or more repeated violations that created
63.8 an imminent risk to direct resident care or safety; or

63.9 (ii) four or more uncorrected violations or two or more repeated violations of any nature
63.10 for which the fines are in the four highest daily fine categories prescribed in rule; or

63.11 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates
63.12 to the operation of the nursing home or other assisted living establishment, or directly affects
63.13 resident safety or care.

63.14 **Subd. 2. Exception.** The provisions of subdivision 1 do not apply to any controlling
63.15 person of the assisted living establishment who had no legal authority to affect or change
63.16 decisions related to the operation of the nursing home or other assisted living establishment
63.17 that incurred the uncorrected violations.

63.18 **Subd. 3. Stay of adverse action required by controlling person restrictions.** (a) In
63.19 lieu of revoking, suspending, or refusing to renew the license of an assisted living
63.20 establishment where a controlling person was disqualified by subdivision 1, clause (1), the
63.21 commissioner may issue an order staying the revocation, suspension, or nonrenewal of the
63.22 assisted living establishment's license. The order may but need not be contingent upon the
63.23 assisted living establishment's compliance with restrictions and conditions imposed on the
63.24 license to ensure the proper operation of the assisted living establishment and to protect the
63.25 health, safety, comfort, treatment, and well-being of the residents in the establishment. The
63.26 decision to issue an order for a stay must be made within 90 days of the commissioner's
63.27 determination that a controlling person of the assisted living establishment is disqualified
63.28 by subdivision 1, clause (1), from operating an assisted living establishment.

63.29 (b) In determining whether to issue a stay and to impose conditions and restrictions, the
63.30 commissioner must consider the following factors:

63.31 (1) the ability of the controlling person to operate other assisted living establishments
63.32 in accordance with the licensure rules and laws;

64.1 (2) the conditions in the nursing home or assisted living establishment that received the
64.2 number and type of uncorrected or repeated violations described in subdivision 1, clause
64.3 (1); and

64.4 (3) the conditions and compliance history of each of the nursing homes and assisted
64.5 living establishments operated by the controlling persons.

64.6 (c) The commissioner's decision to exercise the authority under this subdivision in lieu
64.7 of revoking, suspending, or refusing to renew the license of the assisted living establishment
64.8 is not subject to administrative or judicial review.

64.9 (d) The order for the stay of revocation, suspension, or nonrenewal of the assisted living
64.10 establishment license must include any conditions and restrictions on the license that the
64.11 commissioner deems necessary based upon the factors listed in paragraph (b).

64.12 (e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the
64.13 commissioner shall inform the controlling person in writing of any conditions and restrictions
64.14 that will be imposed. The controlling person shall, within ten working days, notify the
64.15 commissioner in writing of a decision to accept or reject the conditions and restrictions. If
64.16 the assisted living establishment rejects any of the conditions and restrictions, the
64.17 commissioner must either modify the conditions and restrictions or take action to suspend,
64.18 revoke, or not renew the assisted living establishment's license.

64.19 (f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the
64.20 controlling person shall be responsible for compliance with the conditions and restrictions
64.21 contained therein. Any time after the conditions and restrictions have been in place for 180
64.22 days, the controlling person may petition the commissioner for removal or modification of
64.23 the conditions and restrictions. The commissioner must respond to the petition within 30
64.24 days of the receipt of the written petition. If the commissioner denies the petition, the
64.25 controlling person may request a hearing under the provisions of chapter 14. Any hearing
64.26 shall be limited to a determination of whether the conditions and restrictions shall be modified
64.27 or removed. At the hearing, the controlling person has the burden of proof.

64.28 (g) The failure of the controlling person to comply with the conditions and restrictions
64.29 contained in the order for stay shall result in the immediate removal of the stay and the
64.30 commissioner shall take action to suspend, revoke, or not renew the license.

64.31 (h) The conditions and restrictions are effective for two years after the date they are
64.32 imposed.

65.1 (i) Nothing in this subdivision shall be construed to limit in any way the commissioner's
65.2 ability to impose other sanctions against an assisted living establishment licensee under the
65.3 standards in state or federal law whether or not a stay of revocation, suspension, or
65.4 nonrenewal is issued.

65.5 **EFFECTIVE DATE.** This section is effective July 1, 2020.

65.6 Sec. 26. **[144I.13] MINIMUM SERVICES AND STANDARDS.**

65.7 Subdivision 1. **Generally.** (a) An assisted living establishment must meet the standards
65.8 and requirements of this section and offer a package of housing, care, and services that meet
65.9 the needs of the residents and for which the resident contracted.

65.10 (b) Provided they are within the scope of the license and consistent with this section,
65.11 assisted living establishments may:

65.12 (1) offer to residents and prospective residents services other than those required as a
65.13 minimum;

65.14 (2) offer any package of services to residents, provided the package includes those
65.15 services required as a minimum; and

65.16 (3) offer or provide services directly or through a licensed affiliated home care provider.

65.17 (c) Assisted living establishments may offer and provide assisted living services to all
65.18 or some of the residents.

65.19 Subd. 2. **Housing and safety.** (a) An assisted living establishment must maintain
65.20 minimum health, sanitation, safety, and comfort standards prescribed by the commissioner
65.21 in adopted rules with respect to the physical plant, equipment, maintenance, and operation
65.22 of the assisted living establishment, including standards with respect to evacuation of
65.23 ambulatory and nonambulatory residents and controlled egress and secured perimeters for
65.24 residents in Level 3 licensed assisted living establishments.

65.25 (b) The commissioner may temporarily waive compliance with one or more of the
65.26 standards or requirements if the commissioner determines that:

65.27 (1) temporary noncompliance with the standard or requirement will not create an
65.28 imminent risk of harm to a resident; and

65.29 (2) a controlling person of an assisted living establishment on behalf of all other
65.30 controlling persons of the establishment:

66.1 (i) has entered into a contract to obtain the materials or labor necessary to meet the
66.2 standard or requirement established by the commissioner, but the supplier or other contractor
66.3 has failed to perform the terms of the contract and the inability of the assisted living
66.4 establishment to meet the standard or requirement is due solely to that failure; or

66.5 (ii) is otherwise making a diligent good faith effort to meet the standard or requirement.

66.6 Subd. 3. **Assessments.** (a) The commissioner must establish by rule assessment standards
66.7 and protocols to determine the person's physical, cognitive, social, and service needs. The
66.8 rules must provide that the physical and cognitive components of the assessments must be
66.9 conducted by a registered nurse, as required by applicable home care licensure requirements
66.10 in chapter 144A and sections 148.171 to 148.285, and the social and service components
66.11 must be conducted by a qualified professional, with the active participation of the resident.

66.12 (b) The assessment prior to move-in must be:

66.13 (1) designed to ensure that the licensee can meet the needs and expectations of the
66.14 resident;

66.15 (2) used to develop the plan for care and services; and

66.16 (3) conducted before the earlier of the date the prospective resident enters into an assisted
66.17 living contract under section 144J.02 or moves in.

66.18 (c) The standards for assessments prior to move-in and ongoing assessments must cover:

66.19 (1) the qualifications and training required for persons conducting the social and service
66.20 components of the assessments;

66.21 (2) the elements of the physical and cognitive evaluation of the resident;

66.22 (3) evaluation of activities of daily living, as defined in section 256B.0659, subdivision
66.23 1, paragraph (b);

66.24 (4) evaluation of instrumental activities of daily living, as defined in section 256B.0659,
66.25 subdivision 1, paragraph (i);

66.26 (5) evaluation of the resident's medicine administration and management abilities;

66.27 (6) any other standards deemed necessary by the commissioner.

66.28 (d) The commissioner must develop for use by all licensees a uniform assessment tool
66.29 to be completed for all residents prior to the resident's move-in date and at subsequent
66.30 intervals as determined by rule and is based on the standards under paragraph (c).

67.1 Subd. 4. **Minimum services.** (a) A Level 1 licensee may offer all or a package of basic
67.2 home care services that at a minimum must include two meals per day, weekly housekeeping,
67.3 and weekly laundry service. A Level 1 licensee may offer therapeutic or other dementia
67.4 care services as determined by the commissioner in rule, but may not offer, provide, advertise,
67.5 or hold themselves as offering or providing dementia care services that would require a
67.6 Level 3 license. A Level 1 licensee may not offer or provide any comprehensive home care
67.7 services.

67.8 (b) A Level 2 licensee may offer all or a package of comprehensive home care services
67.9 that at a minimum must include two meals per day, weekly housekeeping, and weekly
67.10 laundry service. A Level 2 licensee may offer therapeutic or other dementia care services
67.11 as determined by the commissioner in rule, but may not offer, provide, advertise, or hold
67.12 themselves as offering or providing dementia care services that would require a Level 3
67.13 license.

67.14 (c) A Level 3 licensee must meet the requirements of a Level 2 licensee and may in
67.15 addition offer, provide, advertise, or hold themselves as offering or providing dementia care
67.16 services. The dementia care services offered or provided must meet the standards established
67.17 by the commissioner, by rule, as provided under subdivision 5, and must be provided by
67.18 staff who meet the standards established by the commissioner in rule to provide dementia
67.19 care services in Level 3 establishments.

67.20 Subd. 5. **Staffing and training standards.** (a) Every assisted living establishment must:

67.21 (1) provide staff access to an on-call registered nurse 24 hours per day, seven days per
67.22 week;

67.23 (2) have and maintain a system for delegation of health care activities to unlicensed
67.24 personnel by a registered nurse, including supervision and evaluation of the delegated
67.25 activities as required by applicable home care licensure requirements in chapter 144A and
67.26 sections 148.171 to 148.285; and

67.27 (3) have a person or persons available 24 hours per day, seven days per week, who is
67.28 responsible for responding to the requests of residents for assistance with health or safety
67.29 needs, who must be:

67.30 (i) awake;

67.31 (ii) located in the same building, in an attached building, or on a contiguous campus
67.32 with the assisted living establishment in order to respond within a reasonable amount of
67.33 time;

68.1 (iii) capable of communicating with residents;

68.2 (iv) capable of recognizing the need for assistance;

68.3 (v) capable of providing either the assistance required or summoning the appropriate
68.4 assistance; and

68.5 (vi) capable of following directions.

68.6 (b) The commissioner must establish, by rule, the minimum initial and ongoing training
68.7 requirements for staff and administrators of Level 1, Level 2, and Level 3 assisted living
68.8 establishments licensed under this chapter, including training on sections 144J.06 to 144J.10
68.9 and minimum Alzheimer's disease, dementia, memory, and any other special care training
68.10 requirements.

68.11 (c) The commissioner must adopt rules that, at a minimum:

68.12 (1) require all assisted living establishments to maintain sufficient staffing at all times
68.13 to meet the scheduled and reasonably foreseeable unscheduled needs of each resident as
68.14 required by the residents' contracts, assessments, and plans for care and services;

68.15 (2) establish minimum educational, professional, skills, competency, and experiential
68.16 requirements for administrators and staff of assisted living establishments; and

68.17 (3) include any additional requirements for licensing or certification of staff who are
68.18 health care professionals and who are providing dementia care services in Level 3 assisted
68.19 living establishments.

68.20 Subd. 6. **Medications.** The commissioner must establish, by rule, standards for Level
68.21 1, Level 2, and Level 3 assisted living establishments to provide:

68.22 (1) medication administration, as defined in section 144A.43, subdivision 11;

68.23 (2) medication management, as defined in section 144A.43, subdivision 12; and

68.24 (3) medication storage.

68.25 Subd. 7. **Dementia care standards.** The commissioner must establish, by rule, service
68.26 and training standards for the care of persons with cognitive impairments, including
68.27 Alzheimer's disease and dementia, that are specific for staff and administrators at each level
68.28 of licensure. The standards must include, at a minimum:

68.29 (1) core criteria;

68.30 (2) minimum safety and quality requirements;

68.31 (3) assessments;

- 69.1 (4) care planning;
69.2 (5) therapeutic activities;
69.3 (6) cultural competencies; and
69.4 (7) dementia care training curriculum.

69.5 **Sec. 27. [144I.14] TRANSFER OF RESIDENTS WITHIN ESTABLISHMENT.**

69.6 (a) An assisted living establishment must provide for the safe, orderly, and appropriate
69.7 transfer of residents within the establishment.

69.8 (b) If an assisted living contract permits resident transfers within the assisted living
69.9 establishment, the establishment must provide at least 30 days' advance notice of the transfer
69.10 to the resident and the resident's designated representative.

69.11 (c) In situations where there is a curtailment, reduction, capital improvement, or change
69.12 in operations within an assisted living establishment, the establishment must minimize the
69.13 number of transfers needed to complete the project or change in operations, consider
69.14 individual resident needs and preferences, and provide reasonable accommodation for
69.15 individual resident requests regarding the room transfer. The assisted living establishment
69.16 must provide notice to the Office of Ombudsman for Long-Term Care and, when appropriate,
69.17 the Office of Ombudsman for Mental Health and Developmental Disabilities, in advance
69.18 of any notice to residents, residents' designated representatives, and families, when all of
69.19 the following circumstances apply:

69.20 (1) the transfers of residents within the assisted living establishment are being proposed
69.21 due to curtailment, reduction, capital improvements, or change in operations;

69.22 (2) the transfers of residents within the assisted living establishment are not temporary
69.23 moves to accommodate physical plan upgrades or renovation; and

69.24 (3) the transfers involve multiple residents being moved simultaneously.

69.25 **EFFECTIVE DATE.** This section is effective July 1, 2020.

69.26 **Sec. 28. [144I.15] REIMBURSEMENT UNDER ASSISTED LIVING SERVICE**
69.27 **PACKAGES.**

69.28 The requirements for the elderly waiver program's assisted living payment rates under
69.29 section 256B.0915, subdivision 3e, shall continue to be effective and providers who do not
69.30 meet the requirements of this chapter may continue to receive payment under section
69.31 256B.0915, subdivision 3e, as long as the provider continues to meet the definitions and

70.1 standards for assisted living and assisted living plus in the federally approved Elderly Home
70.2 and Community-Based Services Waiver Program. Providers of assisted living for the
70.3 community access for disability inclusion (CADI) and Brain Injury (BI) waivers shall
70.4 continue to receive payment as long as the provider continues to meet the definitions and
70.5 standards for assisted living and assisted living plus in the federally approved CADI and
70.6 BI waiver plans.

70.7 **EFFECTIVE DATE.** This section is effective July 1, 2020.

70.8 Sec. 29. **[144I.17] STATE RECEIVERSHIP.**

70.9 Subdivision 1. **Petition; notice.** (a) In addition to any other remedy provided by law,
70.10 the commissioner may petition the district court for an order directing the controlling person
70.11 of an assisted living establishment to show cause why the commissioner should not be
70.12 appointed receiver to operate the establishment. The petition to the district court shall contain
70.13 proof by affidavit that one or more of the following exists:

70.14 (1) the commissioner has commenced proceedings to suspend or revoke the state license,
70.15 or refuses to renew a license;

70.16 (2) violations of this chapter or chapter 144J, adopted rules, or violations of other state
70.17 laws or rules create an emergency for the residents of the establishment;

70.18 (3) a threat of imminent abandonment by the owner or operator of the assisted living
70.19 establishment; or

70.20 (4) a pattern of failure to meet ongoing financial obligations such as failing to pay for
70.21 food, pharmaceuticals, personnel, or required insurance.

70.22 (b) The order to show cause shall be personally served to either the assisted living
70.23 establishment or to the person designated as the agent by the controlling person to accept
70.24 service on their behalf pursuant to section 144I.03, subdivision 2.

70.25 Subd. 2. **Appointment of receiver, rental.** (a) If, after the hearing, the court finds that
70.26 receivership is necessary as a means of protecting the health, safety, or welfare of a resident
70.27 of the assisted living establishment, the court shall appoint the commissioner as a receiver
70.28 to take charge of the establishment. The commissioner may enter into an agreement for a
70.29 managing agent to work on the commissioner's behalf in operating the assisted living
70.30 establishment during the receivership. The court shall determine a fair monthly rental for
70.31 the assisted living establishment, taking into account all relevant factors including the
70.32 condition of the establishment. This rental fee shall be paid by the receiver to the appropriate
70.33 controlling person for each month that the receivership remains in effect but shall be reduced

71.1 by the amount that the cost of the receivership provided under section 256R.52 are in excess
71.2 of the establishment rate.

71.3 (b) The controlling person may agree to waive the fair monthly rent by affidavit to the
71.4 court. Notwithstanding any other law to the contrary, no payment made to a controlling
71.5 person of an assisted living establishment by any state agency during a period of receivership
71.6 shall include any allowance for profit or be based on any formula that includes an allowance
71.7 for profit.

71.8 (c) Notwithstanding state contracting requirements in chapter 16C, the commissioner
71.9 shall establish and maintain a list of qualified licensed assisted living establishment
71.10 administrators, or other qualified persons or organizations with experience in delivering
71.11 skilled health care services, home care services, and the operation of long-term care facilities,
71.12 for those interested in being a managing agent on the commissioner's behalf during a state
71.13 receivership of an establishment. The list will be a resource for choosing a managing agent
71.14 and the commissioner may update the list at any time. A managing agent cannot be someone
71.15 who:

71.16 (1) is the owner, licensee, or administrator of the establishment;

71.17 (2) has a financial interest in the assisted living establishment at the time of the
71.18 receivership or is a related party to the owner, licensee, or administrator; or

71.19 (3) has owned or operated any nursing home, assisted living establishment, or boarding
71.20 care home that has been ordered into receivership.

71.21 Subd. 3. **Emergency procedure.** If it appears from the petition filed under subdivision
71.22 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses
71.23 under oath when the court determines that this is necessary, that there is probable cause to
71.24 believe that an emergency exists in an assisted living establishment requiring the receivership,
71.25 the court shall issue a temporary order for appointment of a receiver within two days after
71.26 receipt of the petition. Notice of the petition shall be served personally on the assisted living
71.27 establishment administrator or on the person designated as the agent by the controlling
71.28 person to accept service on their behalf according to section 144I.03, subdivision 2. A
71.29 hearing on the petition shall be held within five days after notice is served unless the
71.30 administrator or designated agent consents to a later date. After the hearing, the court may
71.31 continue, modify, or terminate the temporary order.

71.32 Subd. 4. **Powers and duties of receiver.** (a) An assisted living establishment receiver
71.33 appointed according to this section shall with all reasonable speed and within 18 months
71.34 after the receivership order, determine whether to close the assisted living establishment or

72.1 to make other provisions intended to keep it open. If closure is the determination, the
72.2 commissioner shall provide for the orderly transfer of all of the assisted living establishment's
72.3 residents to other locations according to the relocation procedures required in section
72.4 144A.161. During the receivership, the receiver may correct or eliminate those deficiencies
72.5 in the assisted living establishment that seriously endanger the life, health, or safety of the
72.6 residents unless the correction or elimination of deficiencies involves major alterations in
72.7 the physical structure of the assisted living establishment. The receiver shall during this
72.8 period operate the assisted living establishment in a manner designed to guarantee the safety
72.9 and adequate care of and services to the residents. The receiver shall take no action that
72.10 impairs the legal rights of a resident of the assisted living establishment. The receiver has
72.11 authority to make contracts and incur lawful expenses. The receiver shall use the building,
72.12 fixtures, furnishings, and any accompanying consumable goods in the provision of care and
72.13 services to the residents during the receivership period. The receiver shall take action as is
72.14 reasonably necessary to protect or conserve the tangible assets or property during
72.15 receivership. The receiver shall collect incoming payments from all sources and apply them
72.16 to the cost incurred in the performance of the receiver's functions. No security interest in
72.17 any real or personal property comprising the assisted living establishment or contained
72.18 within it, or in any fixture of the facility, shall be impaired or diminished in priority by the
72.19 receiver. The receiver shall pay all valid obligations the assisted living establishment incurred
72.20 during the course of the receivership and may pay obligations incurred prior to the
72.21 receivership if, in the judgment of the commissioner, these payments must be made to ensure
72.22 the health, safety, or welfare of the residents, and shall deduct these expenses from rental
72.23 payments owed to any controlling person by virtue of the receivership. The receiver has
72.24 authority to hire, direct, manage, and discharge any employees of the assisted living
72.25 establishment including the administrator, director of nursing, medical director, manager
72.26 of the establishment, or affiliated home care provider.

72.27 (b) Nothing in this section shall relieve any owner, operator, or controlling person of an
72.28 assisted living establishment placed in receivership of any civil or criminal liability incurred,
72.29 or any duty imposed by law, by reason of acts or omissions of the owner, licensee, or
72.30 controlling person prior to the order for receivership under this section, nor shall anything
72.31 contained in this section be construed to suspend during the receivership any obligation of
72.32 the owner, licensee, or controlling person for payment of taxes or other operating and
72.33 maintenance expenses of the assisted living establishment nor of the owner, licensee, or
72.34 controlling person or any other person for the payment of mortgages or liens.

73.1 Subd. 5. **Receiver's fee; liability; commissioner assistance.** The commissioner, as
73.2 receiver appointed by the court, may hire a managing agent to work on the commissioner's
73.3 behalf to operate the assisted living establishment during the receivership, and that managing
73.4 agent is entitled to a reasonable fee. The receiver and its managing agent shall be liable only
73.5 in an official capacity for injury to person and property by reason of the conditions of the
73.6 assisted living establishment. The receiver and its managing agent shall not be personally
73.7 liable, except for gross negligence and intentional acts. The commissioner shall assist the
73.8 managing agent in carrying out its duties.

73.9 Subd. 6. **Termination.** Receivership imposed pursuant to this section shall terminate
73.10 18 months after the date on which it was ordered, or at any other time designated by the
73.11 court, or upon the occurrence of any of the following events:

73.12 (1) a determination by the commissioner that the assisted living establishment's license
73.13 should be renewed or should not be suspended or revoked;

73.14 (2) the granting of a new license to the assisted living establishment; or

73.15 (3) a determination by the commissioner that all of the residents of the assisted living
73.16 establishment have been provided alternative health care or services, either in another
73.17 assisted living establishment or otherwise.

73.18 Subd. 7. **Postreceivership period; establishment remaining open.** If an assisted living
73.19 establishment remains open after the receivership is concluded, a new operator is only
73.20 legally responsible under state law for its actions after the receivership has concluded.

73.21 **EFFECTIVE DATE.** This section is effective July 1, 2020.

73.22 Sec. 30. **[144I.18] PLACEMENT OF MONITOR.**

73.23 Subdivision 1. **Authority.** The commissioner may place a person to act as a monitor in
73.24 an assisted living establishment in any of the following circumstances:

73.25 (1) in any situation for which a receiver may be appointed under section 144I.17; or

73.26 (2) when the commissioner determines that violations of this chapter, or sections 144J.06,
73.27 144J.07, 144J.08, 144J.09, 144J.12, or 626.557, or rules or regulations adopted under those
73.28 provisions, require extended surveillance to enforce compliance or to protect the health,
73.29 safety, or welfare of the residents.

73.30 Subd. 2. **Duties of monitor.** The monitor shall observe the operation of the assisted
73.31 living establishment; provide advice to the establishment on methods of complying with
73.32 state law and rules, where documented deficiencies from the law or rules exist; and

74.1 periodically shall submit a written report to the commissioner on the ways in which the
 74.2 assisted living establishment meets or fails to meet state law or rules.

74.3 Subd. 3. **Selection of monitor.** The commissioner may select as monitor an employee
 74.4 of the department or may contract with any other individual to serve as a monitor. The
 74.5 commissioner must publish a notice in the State Register that requests proposals from
 74.6 individuals who wish to be considered for placement as monitors and that describes the
 74.7 criteria for selecting individuals as monitors. The commissioner must maintain a list of
 74.8 individuals who are not employees of the department who are interested in serving as
 74.9 monitors. The commissioner may contract with those individuals determined to be qualified.

74.10 Subd. 4. **Payment of monitor.** An assisted living establishment in which a monitor is
 74.11 placed must pay to the department the actual cost associated with the placement, unless
 74.12 payment would create an undue hardship for the assisted living establishment.

74.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

74.14 Sec. 31. **[144I.19] EXPEDITED RULEMAKING.**

74.15 The commissioner shall adopt rules to carry out this chapter using the expedited
 74.16 rulemaking process under section 14.389, including rules establishing standards identified
 74.17 in sections 144I.13 and 144I.14.

74.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

74.19 **ARTICLE 5**

74.20 **MISCELLANEOUS**

74.21 Section 1. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to
 74.22 read:

74.23 Subd. 10. **Termination of service plan.** (a) ~~If a~~ An unaffiliated home care provider
 74.24 must provide at least 30 days' advance notice of termination of a private client's service
 74.25 plan.

74.26 (b) If an unaffiliated home care provider terminates a service plan with a private client,
 74.27 and the client continues to need home care services, the home care provider shall provide
 74.28 the private client and the private client's representative, if any, with a written notice of
 74.29 termination which includes the following information:

74.30 (1) the effective date of termination;

74.31 (2) the reason for termination;

75.1 (3) a list of known licensed home care providers in the private client's immediate
75.2 geographic area;

75.3 (4) a statement that the unaffiliated home care provider will participate in a coordinated
75.4 transfer of care of the private client to another home care provider, health care provider, or
75.5 caregiver, ~~as required by the home care bill of rights, section 144A.44, subdivision 1, clause~~
75.6 ~~(17)~~;

75.7 (5) the name and contact information of a person employed by the unaffiliated home
75.8 care provider with whom the private client may discuss the notice of termination; and

75.9 (6) if applicable, a statement that the notice of termination of home care services does
75.10 not constitute notice of termination of the assisted living establishment or housing with
75.11 services contract with an assisted living establishment or a housing with services
75.12 establishment.

75.13 ~~(b)~~ (c) When the unaffiliated home care provider voluntarily discontinues services to
75.14 all private clients, the unaffiliated home care provider must notify the commissioner, lead
75.15 agencies, and ombudsman for long-term care about its clients and comply with the
75.16 requirements in this subdivision.

75.17 (d) For the purposes of this subdivision:

75.18 (1) "assisted living establishment" has the meaning given in section 144J.01, subdivision
75.19 6. Assisted living establishment does not include a housing with services establishment
75.20 defined in section 144D.01, subdivision 4; and

75.21 (2) "unaffiliated home care provider" has the meaning given in section 144J.01,
75.22 subdivision 14.

75.23 **EFFECTIVE DATE.** This section is effective August 1, 2019.

75.24 Sec. 2. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

75.25 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~
75.26 ~~establishments, as defined in sections 144D.01 to 144D.07,~~ (a) Assisted living establishments,
75.27 as defined in section 144J.01, subdivision 6, that secure, segregate, or provide a special
75.28 program or special unit for residents with a diagnosis of probable Alzheimer's disease or a
75.29 related disorder or that advertise, market, or otherwise promote the establishment as providing
75.30 specialized care for Alzheimer's disease or a related disorder are considered a "special care
75.31 unit." All special care units shall provide a written disclosure to the following:

75.32 (1) the commissioner of health, if requested;

76.1 (2) the Office of Ombudsman for Long-Term Care; and

76.2 (3) each person seeking placement within a residence, or the ~~person's authorized~~ resident's
 76.3 designated representative, as defined in section 144J.01, subdivision 8, before an agreement
 76.4 to provide the care is entered into.

76.5 **EFFECTIVE DATE.** This section is effective July 1, 2020.

76.6 Sec. 3. **REPEALER.**

76.7 Minnesota Statutes 2018, sections 144D.01, subdivision 6; 144D.025; 144D.065;
 76.8 144D.066; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, and 5; 144G.05; and
 76.9 144G.06, are repealed effective July 1, 2020."

76.10 Delete the title and insert:

76.11 "A bill for an act

76.12 relating to health; establishing consumer protections for residents of assisted living
 76.13 establishments; establishing an assisted living establishment license; providing
 76.14 criminal penalties; granting rulemaking authority; amending Minnesota Statutes
 76.15 2018, sections 144.057, subdivision 1; 144.0721; 144.122; 144.651, subdivision
 76.16 1, by adding a subdivision; 144A.18; 144A.19, subdivision 1; 144A.20, subdivision
 76.17 1; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511; 144A.26; 144A.27;
 76.18 144A.4791, subdivision 10; 144D.01, subdivisions 2a, 4, 5, by adding subdivisions;
 76.19 144D.015; 144D.02; 144D.04, subdivision 1; 144D.05; 144D.06; 144D.09;
 76.20 144D.10; 144D.11; 325F.72, subdivisions 1, 4; proposing coding for new law in
 76.21 Minnesota Statutes, chapter 144; proposing coding for new law as Minnesota
 76.22 Statutes, chapters 144I; 144J; repealing Minnesota Statutes 2018, sections 144A.44;
 76.23 144A.441; 144A.442; 144D.01, subdivision 6; 144D.025; 144D.04, subdivisions
 76.24 2, 3; 144D.045; 144D.065; 144D.066; 144D.07; 144D.09; 144G.01; 144G.02;
 76.25 144G.03, subdivisions 1, 2, 3, 4, 5, 6; 144G.04; 144G.05; 144G.06."